

**The Origin of Persons:
Tracing Back the Moral Subject**

Helen Watt

**Doctor of Philosophy
University of Edinburgh
1992**



Declaration

I declare that this thesis has been composed by me and that the work is my own.

Helen Watt

UNIVERSITY OF EDINBURGH

ABSTRACT OF THESIS (Regulation 3.5.10)

Name of Candidate Helen WATT
Address
Degree Ph.D Date 23/3/92
Title of Thesis The Origin of Persons : Tracing Back the
..... Moral Subject
No. of words in the main text of Thesis 54 938

In this thesis, 'person' is treated as a term with some moral content (fairly unspecific to begin with) describing the reader and myself, at least at the present time. I begin by looking at psychological theories of personal identity, both reductionist and 'Simple', and find that there are good reasons for abandoning both such approaches. Then I examine different theories on the necessity of origin, concluding that our time of origin is essential to our existence, and that the actual combination of our parents' gametes is essential to our origin, whether or not the two coincide. Our particular thoughts, in contrast, are not essential to our origin or existence; any or all these thoughts might never have occurred to us.

I then look at theories according to which human persons are physical beings, but do not originate with the organism itself. Theories according to which personhood is a stage of an organism are, I argue, impossible to reconcile with the widespread belief that our personal status is inseparable from ourselves. Thus the organism before whatever stage is said to mark the onset of personhood will similarly be a candidate for personal status. On the other hand, the theory that the onset of personhood is marked by some substantial change with the advent of some new capacity, threatens us with two superimposed psychological substances: the person, and the organism which seems to acquire the capacity.

Tracing back the entity which undergoes change, I examine various forms of potential in relation to very early human development, offering a new theory on the specific active tendencies which define our existence. Human persons are, I argue, 'rational-type' organisms, whose morally significant interests begin with their origin as living wholes. In the remaining chapters I look at the content of our personal status, in general, and at a time close to our origin.

Acknowledgements

I am most grateful to Vincent Hope for his generous, patient, and tactful supervision. I also thank Vinit Haksar and Jenny Teichman for their helpful comments on some chapters. Ted Watt, Paul Watt and Jeremy Killerby made various indispensable corrections. I am grateful for the financial support of the British Council and the University of Edinburgh, and for the moral support of my friends and family.

Contents

Introduction	1
Personal Minds	11
Necessity and Origin	31
Personal Bodies	47
Potential	60
The Embryo	77
Interests	104
Respect for Persons	126
Conclusion	151
Bibliography	162

Introduction

When did I begin? This is a question most of us have asked, at various ages, and with varying degrees of urgency. The question is often linked with that of our moral status, for we think of ourselves as moral subjects of special importance, with a status somehow different from that of 'lower animals', of the kind we keep as pets. What, then, are we essentially, and what marks the origin of our existence as persons?

It is often said that we can imagine non-human persons - spirits, extraterrestrials, and so on - who, if they existed, would have a moral status similar in some ways to our own. Yet the subject of this study will be persons of our own kind, who, I will argue, have their own existence conditions, not all of which could be shared by non-human persons. We will thus be asking when human persons originate, not when similar beings we can imagine might originate. And indeed it may be found that some of the conditions under which we can imagine human persons beginning, or continuing, are in fact impossible, given our constitution.

To say that we are concerned with human persons is to restrict the enquiry to persons like ourselves, but not to prejudge the question whether there are biological conditions for the existence of whatever selves we are. We will take it that the reader and the writer of this page are persons, at least at the time of reading and writing. The aim is to trace such paradigmatic persons as ourselves as far back as we can. It

will be assumed that persons, whatever else they are, are the kind of thing which can exist over time. Rather than focus on problems of identity - on how one thing can be 'the same' as itself, or 'two' things the same as each other - we will treat the question of our continued existence as one of kind membership, or continuity under a sortal.¹ Our concern will be not with the task of defining identity, but with criteria of personal existence: with the kind of history which a human person must, and may have.

It should be stressed further that our focus of enquiry is not the various meanings attached to the word 'person', nor the evidence commonly used in identifying persons. In seeking to establish conditions for the presence of a person we are looking not for what we use as evidence of this presence, but rather, for what, if anything, constitutes this presence. Nonetheless, our ontological focus does not exclude all interest in evidence. As Harold Noonan observes, to say we have other concerns than the evidential

[...] is not to say that a philosophical account of personal identity can just put aside as a mere irrelevance what actually counts as evidence for personal identity. For both our own identity over time and that of others is, we ordinarily think, something of which we can have knowledge. Conceivably this common opinion may be mistaken, but the onus of proof is on any philosopher who says so. In the absence of any such proof, then, it must be regarded as a condition of adequacy on any account of what personal identity consists in that it not entail that personal identity is unknowable, or not knowable in the ways we ordinarily take it to be, or leave it completely mysterious how it can be known in these ways.²

It might be objected that if we already know how to use the term 'person', we already know our existence conditions, and perhaps even our origin. However, this does not, of course, follow. That we know certain things about persons - or bees, or clouds - does not imply that we know everything about them, only that we have some way of picking them out, at least sometimes, and thus, perhaps, of filling in the gaps in our knowledge. As Nagel puts it:

I may understand and be able to apply the term 'gold' without knowing what gold really is - what physical and chemical conditions anything must meet to be gold. My prescientific idea of gold, including my knowledge of the perceptible features by which I identify samples of it, includes a blank space to be filled in by empirical discoveries about its intrinsic nature. Similarly I may understand and be able to apply the term 'I' to myself without knowing what I really am. In Kripke's phrases, I what I use to fix the reference of the term does not tell me everything about the nature of the referent.³

What is it that fixes the reference of the term 'person'? I will take it that persons are what we are ourselves, and that the term refers, among other things, to our status as moral subjects of importance. Since we paradigmatic persons are currently reading and writing, it seems that persons also are, or can be, rational. The concept of a person is almost always linked in some way with those of rationality and self-consciousness. Indeed, persons have often been defined by philosophers as thinking, self-reflective beings. Thus Locke:

This being premised to find wherein personal Identity consists, we must consider what Person stands for; which, I think, is a thinking intelligent Being, that has reason and reflection, and can consider itself as it self, the same thinking thing in different times and places; which it does only by that consciousness, which is inseparable from thinking, and as it seems to me, essential to it: it being impossible for anyone to perceive, without perceiving, that he does perceive.⁴

In contrast, Locke claims that

the Identity of the same Man consists [...] in nothing but a participation of the same continued Life, by constantly fleeting particles of Matter, in succession vitally united to the same organized Body.⁵

We will be looking in due course at the relationship between personhood and rationality. What should we say about moral agency? 'Person', being partly, at least, a moral term, has its place in a world in which there are moral agents. To this many have added that persons themselves must be agents; thus Kant:

[...] to whatever laws a rational being may be subject, he being an end in himself must be able to regard himself as also legislating universally in respect of these same laws, since it is just this fitness of his maxims for universal legislation that distinguishes him as an end in himself; also it follows that this implies his dignity (prerogative) above all

mere physical beings, that he must always take his maxims from the point of view which regards himself, and likewise every other rational being, as law-giving beings (on which account they are called persons). In this way a world of rational beings (*mundus intelligibili*) is possible as a Kingdom of ends, and this by virtue of the legislation proper to all persons as members. ⁶

Many modern philosophers have suggested that it is the mutual relations an individual has or can have with others which makes the person. Thus Puccetti:

not all moral objects are moral subjects themselves, yet every moral subject, since it can also be a moral object to other moral subjects, can have reciprocal moral relations with other such subjects. It is this dual 'subject-object' feature which characterizes what I call 'moral agents'. And I think it will be consistent with everything put forward up to now to say, therefore, that our concept of a person is at the same time the concept of a moral agent.⁷

Some have suggested that persons must be capable of claiming their rights, or else their 'personhood' is merely imputed to them by others. Tristram Engelhardt believes that persons are respected as fellow negotiators

not because one values them or autonomy, but as a condition for the possibility of the moral enterprise [...] persons have primacy in all moral considerations, for it is with them that one reasons or negotiates concerning moral matters. It is because they are possible negotiators that one must respect them as a condition for securing morality where concrete rational arguments fail.⁸

Of those who are unable to negotiate Engelhardt says that

[...] one can impute special rights to infants, the profoundly mentally retarded, and the severely senile. But those entities cannot shoulder the duties of persons, nor participate in discussions about their own fate. Their destinies remain forever in the hands of others. It becomes important, then, to determine when humans are persons in the sense of mutual negotiators who can claim their rights, versus when humans are persons in the sense of instances of human life to which we impute very important rights.⁹

Often a preoccupation with social relations has resulted in suggested times for our emergence as human subjects (birth, implantation, viability, quickening) which have more to do with the reactions of others than with strictly ontological concerns. Poplawski and Gillett argue for the gradual acquisition of status by a continuing

individual, who nonetheless has a certain moral weight from the time of origin, as the beginning of the overall 'form' of a human life:

a distinct individual enters the human community by forming interactions which are at first relatively simple and then later more complex emotional, social and moral engagements. But notice that the extended form of humanity entails that an identifiable individual who will at some stage be a rational social being with full moral rights is in existence from very early on.¹⁰

Thus too Loren Lomasky, while claiming that 'one's self-identity as the individual one is does not commence with birth' places great stress on epistemological considerations, such as the individual's recognizability by others, which is, he says, 'crucial for moral motivation'.¹¹

With regard to this last point, it is, of course, true that we need be able to identify an individual in some way in order to have a duty which refers to that individual. It is also true that there are moral duties which presuppose a high level of identifiability. However, it would appear that a fairly minimal level of identifiability is sufficient for moral motivation. After all, we think we have duties with regard to groups of strangers, such as famine victims, whom we have never seen and could not identify, save in very general terms. Moreover, what seems important is not how identifiable or recognizable these strangers are to us or to others, but rather, whether someone can identify them sufficiently well to regard them with respect, and if possible, win for them some benefit. This is not to deny that a high level of recognizability can have a substantial impact on our emotions. But emotions, though they may inspire and accompany moral judgements, are not themselves moral judgments; not, at any rate, in the view of the makers of moral judgements, who will not usually allow that all they mean to do is to describe, or relieve, their feelings.

I would argue that it is unreasonable to make personhood depend either on one's ability to negotiate and make claims (for what of the severely paralysed, though fully conscious adult?) or on the actual attitudes adopted by others, which would put an individual at the mercy of public opinion. Most of us do not believe that our own personal status is dependent on the attitudes of others.¹² We take a similar view with regard to the personal status of some at least of our fellow-persons. American courts have ruled at different times that blacks and Indians were not full persons: rulings we now regard as grossly unjust. We are only able to form this opinion on the presupposition that there already existed a class of human persons, to whom the principles of justice ought to have been applied.¹³ Stipulative definitions of person are morally inappropriate, ignoring as they do the existing individuals for whose sake morality exists. ¹⁴ Society cannot make or unmake persons by fiat; moreover, any attempt to do so calls into question the very beliefs which make possible society as we know it. For just as many, if not all moral principles presuppose that humans live in society, all societies we know presuppose in their laws and structures a recognition of the existence of persons who must be respected. Even unjust laws will tend to show some recognition of the existence of at least some human subjects morally deserving of protection.

It is sometimes argued that social contracts, real or hypothetical, are in some way prior to respect for human persons, which has been, or could be, derived from such contracts. However, it is not easy

to see how a genuine moral obligation could be derived from a pre-moral contract (if there could be such a thing) - or even how a pre-moral contract might produce a false belief that there was such a thing as a moral obligation. For example, one might decide, out of fear of attack, to regulate one's actions in consultation with others. The idea of regulating one's actions for reasons which refer to the welfare both of oneself and of others is surely a different idea. Engelhardt's negotiators, if they are to take their decisions as having moral authority, must already have the virtue of being disposed to respect each other as persons; to make agreements, and keep them. Moreover, the fairness of the agreements cannot be guaranteed if, for example, standards of fairness are not presupposed in the starting position of the contracting parties. While both the strong and the weak might have reasons relating to physical self-preservation to come to some form of agreement, there is surely no reason to think that the strong would have just as much of this reason to defer to the weak as the weak have to defer to the strong. It appears, then, that personal status could not be derived from real or hypothetical agreements.

The content of the term "personal status" will not be examined in detail until the final section of this thesis. Our immediate task is to identify the personal subject, since it is possible to reach agreement on the nature of this subject without agreeing on every moral principle which may apply to it. Personal status cannot be described without reference to the constitution of the bearers of this status. For example, it does not seem possible to determine

the status of infants without first establishing what kind of being adults are, and how far back their histories; and their status, extend. While a number of moral claims will be used in the course of this thesis to come to ontological conclusions, it will not be assumed from the outset that persons are moral agents, in addition to being moral subjects. And indeed, when we disagree over whether infants are persons, we may be fully agreed that they are neither rational nor agents, but want to know if they are already a certain kind of moral subject - a question which our ontological enquiries may help us decide.

Many claims are made about persons which are not specifically moral. Peter Strawson, for example, claims that our concept of a person is that of a physical being persisting over time, who can be identified in the way in which we identify other physical beings. Strawson believes that the concept of a person is also the concept of an individual who may be conscious. He claims that persons are

individuals [...] of a certain unique type [...] such that to each individual of that type there must be ascribed, or ascribable, both states of consciousness and corporeal characteristics. 15

Strawson claims that the concept of a person is "primitive" and "logically prior" to the concept of "an individual consciousness". However, it may be asserted that persons are in some sense "basic" without their being necessarily material. E.J. Lowe argues that persons are a basic non-physical kind, without substantial parts, which (like, perhaps, some subatomic particles) cannot be defined in terms of anything else:

[...]I would point out that, according to my own precepts, if persons constitute a genuine kind of entity at all, then the general term "person" is to be construed as a semantically simple sortal term, and as such not reducible by analysis or definition to some complex general term, incorporating a conjunction of "defining characteristics" [...] Now why might it be suggested that persons comprise a basic sort? First of all, it is to be observed that persons are not, plausibly, constituted by anything. We have seen already that they have no material constituents [...] Now if persons had constituents, then of course they could not be expected to comprise a basic sort, since we would expect to be able to formulate their criterion of identity in terms presupposing the identity of these constituents whatever they were. But it doesn't seem that they do: which, I think, is why we find it so difficult to comprehend how a person could split or divide, since only what has parts seems capable of division [...] 16

Despite the fact that "person" is a term in common use, philosophical views on the nature of persons are obviously widely divergent. In the next chapter, I will look at theories according to which persons are minds or series of experiences. I will then examine theories on the necessity of origin, and on the possession of physical characteristics, often seen as essential to our personal existence. I will subsequently look at theories according to which persons have physical characteristics, but do not originate with the human organism. I will then consider different kinds of potential, and look in detail at early human development. Following this, I will look at the interests of persons; that is, those which are morally significant. Only in this and subsequent chapters will I attempt to fill in the content of respect for persons. For the time being, I will take it that persons are beings like ourselves, to whom is due some particularly serious form of consideration: consideration their peers are not free to confer and withdraw as they choose.

Notes

- 1 Harold W. Noonan, Personal Identity (London: Routledge, 1989), pp. 108-109.
- 2 Ibid., p. 2.
- 3 Thomas Nagel, The View from Nowhere (New York: Oxford University Press, 1986), pp. 41-42.
- 4 Locke, An Essay Concerning Human Understanding, Book 11 ch. XXV11, 9.
- 5 Ibid., Book 11 ch. XXV11, 6.
- 6 Immanuel Kant, Fundamental Principles of the Metaphysics of Ethics, trans. Thomas Kingsmill Abbott (London: Longmans, 1946), p. 68.
- 7 Roland Puccetti, Persons: A Study of Possible Moral Agents in the Universe (London: Macmillan, 1968), p. 13.
- 8 H. Tristram Engelhardt, "The Foundations of Bioethics: The Attempt to Legitimate Biomedical Decisions and Health Care Policy", Revue de Metaphysique et de Morale 92 (1987), p. 392.
- 9 Ibid., p. 394.
- 10 Nicola Poplawski and Grant Gillett, "Ethics and embryos", Journal of Medical Ethics 17 (1991), p. 65.
- 11 Loren E. Lomasky, Persons, Rights and the Moral Community (Oxford: Oxford University Press, 1987), p. 200
- 12 Nor can the "stipulation theory" be extended to include stipulations that one is oneself a person. Quite apart from the need to discount the views of others to the effect that that the soi-disant person was not a person, it would be counterintuitive to claim that someone so depressed as to see himself as lacking all moral importance could for this reason be treated by others as a non-person.
- 13 Germain Grisez, "A Human Embryo is a Person: Outlining the Argument", forthcoming

14 See Jenny Teichman, "The Definition of Person", Philosophy 60 (1985). Teichman observes that "Stipulative definitions - earmarked as such - are all right when they clarify an argument without affecting its outcome. It is noticeably the case, though, that stipulative definitions of person can have a dramatic effect on the outcomes of metaphysical, moral and political reasonings. Stipulative definitions of person are rarely earmarked as such, and I know of no case in which a reason is given for a stipulation by a philosopher offering such a definition". p. 185.

15 Peter Strawson, Individuals (London: Methuen, 1959), p. 104.

16 E.J.Lowe, Kinds of Being: A Study of Individuation, Identity and the Logic of Sortal Terms (Oxford: Blackwell, 1989), pp.115-129.

Personal Minds

'Person', we are assuming, is a term with some, still largely unspecified moral content. What else should we say about persons? Are persons substances, 'things' or continuants which can undergo change, or 'modes' such as changes or events? Is it always determinate whether a person is present, or is it always, or sometimes, a matter of degree?

If persons are living bodies then, it would seem, they are substances: continuants through time and space, like trees, cats, and so on. But many philosophers argue that persons cannot be living bodies - or not, at any rate, particular living bodies. For can we not imagine swapping our bodies with those of others, if not dispensing with them entirely? It has been claimed not only that I would follow my brain, if my brain were put in someone else's body, but that I would follow the information lifted from my brain, if the information, but not my brain, were transferred to another body.

Moreover, though a brain may in fact be causally necessary for my existence, is it essential to me? Would there be a new person or a continuation of the old one if some disembodied person appeared with clear causal links to some previous living human being? Lowe comments:

The relation between a person and his organized body and its constituents is neither that of identity nor that of constitution [...] the most direct way to establish that an individual person is identifiable neither with his organized body nor with the parcel of matter constituting that body at any given time is simply to show that persons do not have the same criterion of identity as living organisms or as parcels of matter. [...] There

is not apparently an absurdity in speaking of an immaterial person, in the way that there is in speaking of an immaterial oak tree or river [...] when we consider what sort of evidence we look for if we want to detect the presence of a person, we see that we do not in fact necessarily look for bodily characteristics of any sort: we look for intelligent activity [...] ¹

Lowe believes that persons are simple, indivisible psychological substances; a view we will come to in due course. However, many philosophers hold some form of reductionist view, arguing that persons are constituted by, and can perhaps be defined in terms of, certain other things or relations. There is, of course, considerable disagreement on what does in fact constitute the person. Many follow Locke in seeing memory, or similar causal relationships, as essential for the appearance and survival of persons.

As Shoemaker puts it

Remembering is best seen as just a special, albeit very important, case of the retention of acquired mental states, which in turn is a special case of the sort of causal dependence that is central to the unity relation for continuants in general.²

The objection that I may remember at 10 what I did at 5, but at 30 only what I did at 10, can be met by describing memory, or psychological continuity in general, in terms of 'overlapping chains' of direct psychological connections from one time to the next. Continuity maintained through these chains of connections is, or can be, sufficient to constitute the history of one person. It may then be argued, either that the subject of experience is a temporary subject related to other subjects, or that there is no subject of experience. Persons, like nations, are constructs, which have no existence apart from the units which compose them. To the objection that 'memory' usually refers to a claim that a person remembers what he or she really experienced, the reductionist replies by producing the concept of 'quasi-memory' - which does not assume this, but which, like the concept of memory, refers to knowledge about the

past 'from the inside'. Appropriately related quasi- memories then combine to make up the person.

Famously, Hume regarded persons as fictitious entities constructed out of related thoughts, desires, and so on, which, he claimed, could be described without reference to a subject. A well-known modern proponent of this view is Derek Parfit.³ Parfit holds that our existence over time involves psychological continuity, which in turn involves causal continuity, but does not necessarily involve continuity of the same body or brain. This continuity could even occur in 'branching' form, through two continuants, each appropriately related to the earlier person. In this case personal identity will not be preserved, identity being a one-one relation. However, survival will be preserved, and this, Parfit says, is what matters. Parfit distinguishes between the Narrow View of causal continuity, which requires that the cause must be the normal, bodily cause;⁴ the Wide View, which requires that it must be a reliable cause; and the Widest View, which he himself prefers, which allows that it may be any cause.⁵ On the Widest View, if someone were to create a replica of you to coincide with your death, this would count as sufficient for survival (and identity), whereas if the replica were somehow to come into being by accident, without your being used as a model, the replica would not be you.⁶

When does the person originate on Parfit's theory? This is something indeterminate. As far as human development is concerned, Parfit argues that the zygote 'slowly becomes a human being, and a person'.⁷ In general, connectedness between one experience and others may hold to various degrees. For whereas on a non-reductionist view all parts of my life are equally parts of my life, on Parfit's view this is not the case. More direct connections between one part and another will make it 'more the same person' who survives. A person is a series of events; more like an impromptu concert than like a cat or a tree. As the first stray notes are followed by

others, better connected, we may be more and more inclined to say that the concert has started. Such indeterminacy is found, not only during human development, but also when, due to accident, surgery, or simply the passage of time, there are fewer direct connections between the experiences of the present and those of the past. While it may sometimes be hard to decide if a new person is present, this, Parfit thinks, is not important. The question is merely one of words. When we have described the connections which hold between experiences, we have said all we can. In the same way, when there are new experiences sufficiently connected with the old ones - whether through brain transfer, brain 'taping', or however - we have all the survival we could wish for.

Many philosophers have noted with understandable excitement the fact that when the two hemispheres of the upper brain are severed through the operation known as a commissurotomy, each hemisphere appears to have a consciousness of its own.⁸ Some see this as evidence that persons are composite entities who could in theory split into totally independent halves, or, perhaps, into smaller segments. If 'identity' is a one-one relationship, identity would not be maintained. Survival, however, would be maintained: can double success be a failure? To objections that our identity cannot depend on facts about other people's history - on the presence or absence of rival continuers - it may be answered that as there is no underlying fact of the matter concerning our survival, there is no oddity in ruling that identity (as distinct from mere survival) depends on the presence or absence of a rival continuer. Just as whether or not I am heir to the throne may depend on the fate of the previous heir, so whether or not I appear as a separate person depends on whether the previous person had a closer continuer than I am.

Many objections, of various kinds, have been made to strong reductionism. Strongly reductionist theories, as indeed Parfit emphasizes, may indicate radical changes to

our moral and social concepts. In undermining the coherence of lives and the barriers between them, such views describe a world in which both harms and benefits may be apportioned regardless of the lives in which they fall. Parfit suggests that, rather than sharing out benefits among lives, we might instead share them out among smaller units such as thought-episodes.⁹ The fact that many painful experiences will take place in one series provides no reason in itself for rejecting a course of action which, in making this happen, will add a pleasant experience to each of a number of other series. For what exactly is it, according to strong reductionism, which could suffer day after day? It is hard, however, to see how benefits can be shared out among thoughts, and how long we are to take these thoughts as lasting. If 'I', this unit of experience, am in pain at the moment, and 'you' want to do something to help this unit of experience, will your action transform this unit of experience, or generate a new one?¹⁰ And how are we to account for the phenomenon of reflexive concern, except as a serious mistake on the part of an experience unit?¹¹ And in general, to what do we owe respect, and who has 'personal' status: the unit, the series, or some part of the series? When and how does status accrue to the series or its members, and how do we deal with the absence of any moral subject, during periods of total unconsciousness?¹² And why should we respect the wishes expressed in one moment of consciousness, with regard to what will be its remote descendants? For example, if a body dies or is killed, past sensations may not be succeeded by new and related sensations. However, it is hard to find a remotely plausible subject who has been thereby wronged or deprived. If I end a human life I end a person-concert; bad only, one would think, for some non-reductionist audience. And what if ending one thought-series will extend another, or help me start a new and longer series?

Vinit Haksar argues that 'subjectless' items of experience are most ineligible candidates for moral concern:

There is not anything it is like to be a group or bundle [...] if a person is really a group then it too would be a bundle, a mere logical construct, and it would not have concerns [...] Nor is it easy to make reductionist sense of praise or blame. Since there is no agent in any deep sense (for all talk of agency and personhood is eliminable) it is not clear who deserves punishment. Is it the individual item of experience? Or is it the whole bundle?

Similar objections are raised by A.I.Melden, who emphasizes that duties to persons cannot be compared with duties to collective entities, which can be readily broken down in terms of duties to individuals:

What is there in the case of a person now viewed on the analogy with a nation or republic that has rights and obligations? An experience? That makes no sense. And neither does it make sense to suppose that it is the whole complex series of interrelated experiences that has rights or is under any obligation. 14

If strong reductionism conflicts with so large a part of our beliefs, the burden of proof lies heavy, as Haksar points out, on those who defend the theory:

While we cannot prove that there is a permanent self, or even a series of permanent selves, we can postulate it as a presupposition of our practical life and subjective experience. It is presupposed by our egoistic hopes and fears and it provides unity to our experiences both at a time (synchronic unity) and over time (diachronic unity). All my experiences are experiences of the same self. 15

Many have argued further that the whole idea of ownerless experiences is incoherent. Ownership is, or can be, sufficient to identify an experience - as where, for example, two qualitatively

identical but numerically separate experiences might be distinguished by the fact they had different owners. 16 Ownership is not only (at least sometimes) sufficient; it is also necessary to identify experiences. Not only do we look for more than an experience, or a bundle, when referring to rights, interests, responsibilities, and so on, but an experience cannot be identified in the first place, except as the experience of a subject.

Lowe defends this proposition at length, arguing that proposals to construct the person out of mental events individuated by their causes fall foul of the fact that causes themselves are events, which cannot be described without presupposing that we know something about these events:

[...]even if we suppose, for the sake of argument, that the individuation of non-mental events is unproblematic, it is none the less the case that no mental event has purely non-mental causes and effects: that is to say, every mental event has other mental events amongst its causes and effects. And hence the proposal to individuate mental events in terms of the sameness of their causes and effects will again presuppose answers to questions of the very sort at issue, namely, questions concerning the identity of mental events. 17

With regard to tests for establishing the existence of separate streams of consciousness after a commissurotomy, we will need to decide, before attempting to stimulate (say) one nostril, that the patient is (for example) awake. Our experimental procedure

presupposes, with respect to each stimulation, that we already have in view a subject to which any resulting experience may be assigned. The key point is that whether the stimulation of a particular nostril results in an olfactory experience depends

precisely on whether that nostril is functioning as an olfactory sense organ of a subject who is identifiable as the possessor of a suitable range of further mental states at the time of stimulation.¹⁸

Having first identified the subject, Lowe maintains, we can then go on to differentiate experiences in separate "streams of consciousness" by identifying causes and effects in relation to that subject.

It might be objected that an experience could be identified by its non-mental cause, and the cause by its own spatiotemporal properties or those of its non-mental causes. To this objection Lowe might reply that to identify something as the cause of an experience (and not just as the cause of some external event) we would still need to associate the outcome of this cause with a subject of experience. Thus while we can certainly differentiate between the external events leading up to the touching of the left and right nostrils, to conclude that an experience results from these events we will need to assume that a subject is present to be affected. We would not be engaging in the experiment at all if we did not have a possible subject to hand in our patient, to whom an apparent experience could be attributed. While we could always hypothesize that more than one subject was present (for example, that our patient was possessed by demons), there would be a strong prima facie case against this hypothesis, since in any event we would have to use the reactions of the patient's body in order to conclude that there had been an experience at all. Any

recognizable reactions on the part of our hypothetical demons would thus be parasitic on the normal recognizable reactions of human subjects.

One might still argue that if we do think it theoretically possible that our patient is possessed, then we must think it possible to identify experiences without first identifying a subject in that situation. It might still be the case, however, that a suspected experience would need to be attributed to one of the following: to the patient, to some alternative subject mimicking the behaviour of a human subject, or to an alternative human subject. If a claim to have had that experience were made by another subject known to exist (say, the patient's Siamese twin), while the patient denied having had the experience, then we might feel entitled to conclude that the experience was not that of the subject we first thought. Here we are thinking not in terms of ownerless experiences, but of the presence of more than one possible owner.

Noonan also stresses the fact that experiences come "pre-bundled"; pointing out with regard to the memory criterion of personal identity that quasi-memories or experiences "from the inside" can be further described as memories in the presence of appropriate causal connections. Yet we are only able to separate mere quasi-memories through our ability to establish if the subject was there at the time. We cannot look at causal connections to see if these are appropriate without making assumptions as to who had the experience:

What the vicious circularity objection comes to [...] is this. To establish that someone not only thinks that he remembers, or seems to remember, but actually does remember doing or experiencing something, we first have to establish that he, that very person, did indeed do or experience it [...] someone must already have the concept of memory, and recognition of the applicability of the latter concept must rest on recognition of the applicability of the former.¹⁹

In fact something, whether a person or not, had that experience, and remembers it now. And it is doubtful whether that something can be kept separate from the person its history is said to create.

It may be claimed that there are subjects of experience, but rather short-lived subjects: 'thinking substances' or 'person-stages'. Such subjects endure, or (like events) 'perdure' over time, and, succeeded by other subjects to whom they are connected, constitute the person, or person-over-a- lifetime. To ask when the person begins we ask when the first thinking substance or person-stage began - or, perhaps, decide first in which self or span of selves we are interested. While successive substances are better candidates for personal status than some, they do have problems of their own. It is unclear how we are to distinguish between one and another, or how many thinking substances we should try to believe in. And person-stages are not, as stage-theorists themselves point out, independent, conceptually or ontologically, of longer-lived persons. Rather, person-stages and persons are connected, conceptually and ontologically, like a train and its carriages.²⁰ In fact one can go farther and claim that perduring persons may be divided into as many person-stages as we like to imagine. Peter McInerney, having observed that persons cannot be reductively analysed into person-stages, claims that while person-stages can be thought to begin with changes in the person:

What we consider to be an important change of characteristics depends upon our interests. With different interests we would divide the same period of a person's life into different sequences of person-stages.²¹

While it is true that the changes which take place in a person's character can affect our attitudes with regard to that person's life, to say this is, of course, quite different from suggesting that there exists a class of distinct personal sub-entities, out of which persons are formed as a result of their mutual connections. I will argue in a later chapter that whatever changes take place in a lifetime, there are morally significant interests which persist throughout. A person, who is a bearer of morally significant interests, is in that sense wholly present at any one time. In contrast, if persons are histories, it is hard to know to whom to ascribe an interest in, for example, a longer life, which will form part of some later stage of a total history which will not exist if the benefit is not in fact enjoyed. For although it must be a person-stage who is aware of the coming benefit, it does not follow that this particular stage, or even (one would think) the person-up-until-now will be in a position to enjoy it.

There are added complications if, like Noonan,²² we combine the belief that persons can split with the belief that persons are perdurers. We are then faced with the co-existence of two 4-dimensional persons, sharing the same temporal parts before the split, but having different parts after. There is a period of time over which the two persons co-exist in one place, indistinguishable from each other. The interests of the two persons in the results of the split are somehow divided between the two outcomes, in a way as ingenious as it is far removed from our normal picture of persons as subjects of interests exclusive to themselves.

Moral guilt, like certain interests, is a long-term, if not a necessary, feature of persons, which, it would seem, could not be attributed to a later segment of a person if the crime was in fact committed by an earlier segment. To this objection Noonan replies that it assumes what it sets out to prove, and that the proponent of perduring need only claim that the earlier stage is not in fact someone else, but the person

himself.²³ Haksar responds²⁴ by pointing out that punishment nonetheless does not seem fair, since the constituents of persons are themselves, on Noonan's own account, a kind of short-lived person, who can do everything that persons do, except for what persons do over a protracted period of time.

It is true that I might commit some crime at the age, not of 5 but of 30, which might lead someone to claim that the actual agent was me-at-30; in other words, a person-stage. But why not simply suppose that the attribute of guilt was acquired by a persisting self at the age of 30, rather than appearing in the stage-at-the-scene-of-the-crime and passing on to her innocent successors? Is it even possible to visualize a crime in the process of being committed by some perduring entity? What are the boundaries of the person-stage responsible? At what point will we start blaming the person-stage as she comes to incorporate the relevant criminal intention? For this entity would not appear to be changing in some reprehensible way, assuming that all its temporal parts, like those of the person herself, are essential to its existence. It is surely more natural to believe that enduring persons are the subjects of actions, which their histories then contain.

We will be looking further at necessary features of persons. Here we should note the general objection to 'perduring' theories put forward by Wiggins and others, and discussed by Noonan.²⁵ The objection is that summations of person-stages necessarily have the stages they have, whereas I do not (I might, for example, have died at the age of 5). I cannot, then, be identical with the summation of person-stages, if the summation has properties I do not have. To this Noonan replies that 'might have died at the age of 5' must mean different things when applied to 'me' and to 'the summation of stages', just as, he says, 'might have been squeezed into a ball' must mean different things when said of a statue and a lump of clay (which is

why, despite the statue being identical with the lump of clay, the lump of clay, but not the statue, might have been squeezed into a ball).

I would maintain that, on the contrary, the statue is not identical with the clay which constitutes it, precisely in view of the different fates which each might undergo (or have already undergone). Nor is a person identical with stages in his history; though here, not wishing to accept a 4-dimensional view of persons, I would deny that the person was even constituted by stages in his actual history. Rather, the person's history is constituted by certain stages, though it (i.e., the history of that person) need not have been constituted by any of these stages - or not, I will argue, once it had begun.

While in the case of nations we have good reason for allowing for the existence of constituent persons, in the case of persons what reason do we have for postulating the existence of constituent person-stages? If person-stages must be said to do at least some of the things persons do, including things they need not do, why not apply Occam's razor and refer to a single, enduring entity,²⁶ which can be said to have, in its own right, long-term interests, duties, and so on? As Haksar comments:

We postulate the simple self because it is presupposed by our system of moral blame and punishment and by our subjective point of view and prudential fears. Now if we appeal to such considerations we can rule out certain possibilities. For instance, take the doubt regarding whether there is one non-reductionist self per human being throughout his life or one self per person, per year. The former rather than the latter is presupposed by our prudential fears, as well as by our system of punishment and moral blame.²⁷

We have been looking at views according to which a person's identity over time consists in something else - in other things and relations. We will now turn to views according to which this is not the case. Personal identity does not consist in anything else, but is distinct from everything observable that might be evidence for it. Persons

are separately existing entities, distinct from their brains, bodies and experiences. On the best known version of this view, a person is a purely mental entity: a Cartesian pure ego, or spiritual substance. Or it may be argued, as Lowe argues, that persons are simple psychological substances without substantial parts, which, though not essentially material, are not necessarily wholly immaterial, and which can identify themselves as 'the necessarily unique subject of certain thoughts and experiences and as the necessarily unique agent of certain actions.'²⁸

Lowe maintains that while persons have no substantial parts giving rise to constraints on their identity, there are nonetheless constraints on the possible histories of persons, which have to do with the 'empirically discoverable natural laws governing substances of this kind.'²⁹ Somewhat surprisingly, Lowe believes that the origin of persons may be something indeterminate. Since persons are simple substances grounded in no other substances

there is, and can be, no definitive condition that necessarily determines the ceasing-to-be (or, indeed, the coming-to-be) of a self. In the case of complex substances which are governed by criteria of identity the conditions for substantial change (that is, their coming or ceasing-to-be) can be specified fairly exactly, even though these conditions may in some cases be infected by some degree of vagueness. But not so with simple substances - and this is not, with them, a matter of vagueness at all. This observation certainly seems to apply in the realm of fundamental particle physics, as far as I can judge. Thus if, in a particle interaction, an electron collides with an atomic nucleus and various fission products arise, including a number of electrons, it would seem that there may be no determinate 'fact of the matter' as to whether the original electron is, or is not, identical with a given one of the electrons emerging from the impact event. There is here, it would seem, a genuine indeterminateness (I do not say vagueness) of identity.³⁰

Lowe stresses that it is 'strictly only psychologically normal selves'³¹ which fully meet his condition for selfhood. In other cases, though substances would presumably still be involved, these would only approximate to selfhood to varying degrees. Persons, Lowe says, are literally created by other persons; emerging, in the case of the socialization of infants as with the emergence of a rational species, through personal interaction.³²

We will be looking in a later chapter at the possibility of the gradual appearance of person-substances. Suffice it to say that at all times during the creative process there must have been some subject for socialization to have taken place; presumably a substance, which we will need some reason for distinguishing from the person or self. It is particularly difficult to imagine the appearance at some later stage of a person to whom the original psychological substance, by some natural process, bequeaths its memories and capacities. Lowe is in danger of finding himself with overlapping psychological substances when he argues that

[...] persons are essentially things with a past and a (potential) future [...] One way of making the point would be to deny that any genuine sense could be made of the notion that a person, or indeed anything temporarily simulating a person, could exist for only the span of a few moments, or minutes. The generation of a person is, I suggest, something that necessarily takes time, because it involves processes of education, socialization and the accretion of experience where end-products could not even in principle be reproduced in any 'instantaneous' fashion.³³

Whoever has the first thought, it will not be the fully-fledged person, for Lowe goes so far as to claim that

[...] we can make no sense at all of a subject undergoing a single sensory experience in the complete absence of all other mental activity, much less of a single sensory experience - a twinge of pain, say - occurring out of the blue to no subject at all. Pace Hume, 'perceptions', even if they are 'distinct' are frequently not 'separable'. Mental events, even of the most rudimentary kinds, are only conceivable as elements within relatively well- integrated mental economies - that is, as parts of the mental lives of subjects.³⁴

Yet against this, it can be argued that it is not only the very young and the mentally ill who have mental economies which are quite fragmented. Normal adults have many ill-assorted elements in both their conscious and their 'subconscious' mental lives.³⁵ Some of my experiences have very little in common, apart from the fact that they are mine. Indeed, it can be argued that this fact is all-important, being precisely that in virtue of which my existence cannot be a matter of degree. Thus when my brain is subjected to some form of manipulation, I either survive, or I don't. Such

considerations are vividly brought into focus by examples in which my personality is altered, while 'I' remain conscious throughout, and, perhaps, suffer pain. We can make little sense of the idea that, although someone will be in pain, it 'will and it won't' be me. At any stage, we feel like saying, either I will, or I won't be in pain. Challenged by commissurotomy cases, we may want to stand firm, and insist that I either have, or don't have, a part of me which is in pain - just as I either have, or don't have, for example, an angry subconscious. It is easier to claim that a part of me will be in pain than that a pain will belong partly to me and partly to someone else - or fully to someone who will be only partly me.

Geoffrey Madell argues that psychological continuity theories are doomed from the outset, in view of the fact that

the status of any experience as mine or not mine is one thing, its particular character or content is quite another. If we accept, what is in any case obvious, that any of one's experiences might have been different in character, we have implicitly accepted the distinction between the ownership of experiences on the one hand and their character and content on the other. And what goes for any individual experience also goes for series of experiences. If the momentary state of consciousness's being mine is independent of its content and character, then the continuing consciousness's being mine is also independent of content and character. And so the flow of my experiences could be radically fragmented and disconnected [...] the psychological continuity view has nothing to say on what it is for one of two indistinguishable series of experiences - one on Earth and one on Twin Earth, say - to be mine. The clear implication of all this is that the disregard of the first-person view can only give us something incoherent. The fundamental notion governing the view I am attacking seems to be a conception of experiences as essentially impersonal elements (Parfit, for example, is quite explicit about this), a conception which disregards the dimension 'mine/not-mine'.³⁶

For Madell the unanalysable quality of 'mineness' is what my existence amounts to; a quality necessarily excluded from all external, objective descriptions of me. 'Mineness' is a quality of experiences which may otherwise be different in every respect (for Madell is not a substance theorist). Madell points out that subjectivity is the anchor of our references to things we do not fully understand, which we can indicate by means of terms such as 'that thing' (i.e, the thing connected to me by

some causal chain of communication). While we may be wrong about the nature of things thus connected to us, we cannot be completely wrong about the subjective anchor itself; i.e., about ourselves. One may be ignorant of one's particular qualities, but 'not to the extent of supposing that it is possible that one may turn out oneself to be an object like a beer mug, lacking consciousness altogether.'³⁷

Madell's views will be further discussed in the next chapter. Thomas Nagel has also laid considerable stress on the phenomenon of subjectivity, which he presents more in terms of the 'point of view' of the subject.³⁸ Nagel and Madell are surely right to draw attention to the unique and unanalysable nature of subjectivity. We must, however, remember that the subjective viewpoint is a unique, unanalysable mode of subjects; of individuals whose existence is, I would argue, established independently of their point of view. Something, not 'mineness' or the point of view itself, is already in existence. Thus it may not be quite true to say, as does Madell, that 'the status of the present experience as mine or not mine seems to be something quite independent of its objective character'.³⁹ For what connects my otherwise disconnected experiences is the owner to whom the subjective viewpoint objectively belongs.

To say 'I' or 'mine', I do, of course, need to be conscious, to have a point of view. But is it true that I need a point of view for something to be me or mine? After all, I need a point of view to say that you are you, but you do not need a point of view for me to make this claim. The use of indexicals such as 'yours', 'his', and 'mine' requires a point of view on the part of the speaker, but not on the part of the subject to which reference is made - even if this subject is in fact the speaker during some period of unconsciousness connected in some way with the current period of consciousness. The point of view, though necessarily one person's when it appears, need not appear for that person to be present.

We must begin the search for what we are from where we now are - especially as the kind of thing we do when we are conscious may in some way define what we are (and always were). It is true that I am, in the words of Nagel, 'whatever persisting individual in the objective order underlies the subjective continuation of that mental life that I call mine'.⁴⁰ It does not follow that my mental life at or prior to this moment is essential to my existence as a person; only that my existence somehow underlies my mental life at and prior to this moment. For all I know, my existence also underlies certain non-essential bodily features, such as my limbs and power of speech, which may be lost and which need not (perhaps) have developed for me to have existed. Such physical features are discoverable to consciousness, which, coming and going, picks up information on what has gone on in its absence. Remarkable and astonishing as consciousness is, it is nevertheless only one aspect of ourselves - and not, I will argue, the essential aspect.

Notes

- 1 E.J. Lowe, Kinds of Being: A Study of Individuation, Identity, and the Logic of Sortal Terms (Oxford: Blackwell, 1989), pp. 109-110.
- 2 Sydney Shoemaker, Identity, Cause and Mind (Cambridge: Cambridge University Press, 1984), p. 240.
- 3 Derek Parfit, Reasons and Persons (Oxford: Oxford University Press, 1987).
- 4 It is, of course, possible to require for personal identity both psychological and physical continuity. While this would ensure that we had some kind of material continuant, enduring (or perduring) in between experiences, we would still be faced with the finding of reductionist answers to the questions of when we begin, which thoughts are required in addition to our bodies, whether or not we might have led different lives, and so on.
- 5 Parfit (1987), pp. 204-209.
- 6 See Robert Elliott, 'Personal Identity and the Causal Continuity Requirement', The Philosophical Quarterly 162 (1991), pp. 59-60.
- 7 Parfit (1987), p. 322.
- 8 It is, however, only under test conditions that this appears to take place. Moreover, doubts have been raised that it does in fact take place; see Vinit Haksar, Indivisible Selves and Moral Practice (Edinburgh: Edinburgh University Press, 1991), Chapter 6.
- 9 Parfit (1987), pp. 332-345.
- 10 Haksar (1991, p. 220) points out that there is a similar problem with punishment. Who exactly could be punished, on a strongly reductionist thesis? Not, it would appear, the experiences-during-punishment, which would not have existed at all had punishment not taken place.
- 11 Haksar (1991, p. 178): '[...] on the reductionist view an item of experience will not normally last into the future, and its concern would be for other items of experience. So the concern won't be reflexive. Or is it that on the reductionist view the bundle of experience feels concern for itself? But that is impossible.'

- 12 Peter Unger (Identity, Consciousness and Value, New York and Oxford: Oxford University Press, 1990, p.73) draws our attention to the fact that such periods could be quite protracted, if we accept a fantastic case in which one's brain is taped, one's body destroyed and the tape subsequently 'read' after a hundred years have elapsed. Earlier Unger observes that 'as regards such ordinary more abstract things as social clubs, which are neither events nor individuals, we are lenient about allowing for temporal gaps [...] By contrast, we shall be loath to allow that there is any interruption of our existence.' (p.24.)
- 13 Haksar (1991), pp. 177-198.
- 14 A.I. Melden, Rights and Persons (Oxford: Blackwell, 1977), p. 6.
- 15 Haksar (1991), p. 37.
- 16 This would be compatible with the possibility that one owner might have separate 'streams of consciousness', so that experiences would need to be distinguished with reference to their causes and effects, assumed to occur in different parts of the subject. After all, we are used to the idea that we can distinguish our conscious thoughts from the (admittedly qualitatively different) subconscious thoughts we also attribute to ourselves.
- 17 E.J. Lowe, 'Real Selves: Persons as a Substantial Kind', in David Cockburn (ed.), Human Beings (Cambridge: Cambridge University Press, 1991), pp. 100-101.
- 18 Ibid., p.102.
- 19 Harold W. Noonan, Personal Identity (London: Routledge, 1989), p. 172.
- 20 Ibid., pp.126-127. Noonan is quoting a passage from David Lewis, Philosophical Papers, vol.1, (Oxford: Oxford University Press, 1983), p. 126.
- 21 Peter K. McInerney, 'The Nature of a Person-Stage', American Philosophical Quarterly 28 (1991), p. 229.
- 22 Noonan (1989), pp. 140-141.
- 23 Ibid., p. 143.
- 24 Haksar (1991), pp. 246.
- 25 Noonan (1989), p. 144.

- 26 Thus David Wiggins observes, of a more severe form of reductionism ('Locke, Butler and the Stream of Consciousness: and Men as a Natural Kind', Philosophy 51 (1976), p.148) '[...] at least half of the things we want to say about persons cannot be even tortuously explained in terms of the states at an instant of person-moments. Consider for example weak, strong, clever, stupid [...] We might I suppose explain what one or two of these meant in terms of person-moments if we were already possessed of their signification for persons. What seems inconceivable is the reverse procedure'.
- 27 Haksar (1991), p. 64.
- 28 E.J. Lowe, 'Substance and Selfhood', Philosophy 66 (1991), p. 82.
- 29 Ibid., p. 90.
- 30 Ibid., p. 91.
- 31 Ibid., p. 82 n. 3.
- 32 Ibid., p. 96.
- 33 E.J. Lowe (1989), p. 134 n. 46.
- 34 E.J. Lowe, 'Real Selves: Persons as a Substantial Kind', p. 101.
- 35 Kathleen Wilkes (Real People: Personal Identity Without Thought Experiments, Oxford: Clarendon Press, 1988, p. 221) devotes some attention to what she describes as the problem of post-Cartesian philosophy: 'the failure of unity, the failure of the conflicting thoughts and desires to resolve their disharmony in the allegedly all-embracing focus of conscious attention'. But as Wilkes points out earlier in discussing commissurotomy cases, 'It is only if we form the prejudice that consciousness is all, and that the cortex is all, that commissurotomy then seems to present a difficulty for personal identity.' (p. 167.)
- 36 Geoffrey Madell, 'Personal Identity and the Idea of a Human Being' in David Cockburn (1991), pp. 128-129.
- 37 Geoffrey Madell, Mind and Materialism (Edinburgh: Edinburgh University Press, 1988), p. 106.
- 38 Thomas Nagel, The View from Nowhere (New York: Oxford University Press, 1986).

³⁹ Geoffrey Madell, The Identity of the Self (Edinburgh: Edinburgh University Press, 1981), p. 89.

⁴⁰ Nagel (1986), p. 40.

Necessity and Origin

One possible result of the preoccupation with consciousness and the liberal use of thought-experiments is a view of personal identity according to which we are, in Mark Johnstone's term,¹ 'bare loci' of experience. Thus whereas Lowe, another 'simple' theorist, allows for constraints on possible biographies, Madell does not.² Madell points out that there are many, quite different pasts and futures which we can imagine for ourselves. Not only might I in the future look out at the world from your body, but I might always have looked out at the world from your body - or that of my mother, Napoleon, or whoever. My life might have coincided at no point with the life I have actually lived.³ As long as there was a life somewhere with experiences, or at least one experience, with the quality of 'mineness', that life would have been mine. I in fact began at whatever stage in development consciousness emerged,⁴ but I might have begun at any time at all.

Most of us would agree that our lives might have been different, and that, on the other hand, we might not have existed at all. However, many of us also have some inclination to believe that our presence or absence would not have been a totally 'bare fact': that our existence, if conceptually prior to the existence of any parts we may have, or changes we may undergo, is at least analysable with reference to what is essential to our existence - our parts, perhaps, or the elements which produced us.

One possibility is that our existence depends on the gametes which combined to form our bodies. Thus Saul Kripke claims that we could not have come into being with different parents from those we did in fact have. Taking an example from Timothy Sprigge, he maintains that the Queen could not have had as parents Mr and Mrs Harry Truman. (Kripke says that he is excluding 'such recherche possibilities as transplants of the sperm from the father, or the egg from the mother into other bodies, so that in one sense other people might have been her parents.'⁵) Graeme Forbes⁶ in his paper 'Origin and Identity' discusses alternatives to the view that, for someone to have been me, that person would have to have come from the same sperm and ovum as I did. Forbes points out that to deny this is to allow for the possible simultaneous existence of rival candidates to be me: the persons arising from the original ovum, and another sperm, and from the original sperm, and another ovum. Unless we hold some theory of the kind seen in the last chapter, according to which our rival's existence can preclude our own, it seems we cannot allow for this kind of variation in our origin. Forbes does not discuss in this paper the view that the time and place of origin is essential, in addition to the 'generation system'. A less demanding theory than Forbes' is that of Elliot and Gallois,⁷ who suggest that if the matter which in fact made up the gametes of the queen's parents had instead come to make up exactly similar gametes belonging to Truman's parents, the resulting child would have been the queen, albeit with different parents and a different life.

James Bogen ties the necessity of origin more closely to the actual history of the person, which he dates from birth:

In asking whether Thelonius could have had different parents I am assuming that his birth to X and Y was his origin, i.e., that he came into existence at birth and did not exist at any time previous to it. The reason that we can make sense out of 'Napoleon need not have lost' is that Napoleon existed before the defeat and was then capable of doing something or being affected in such a way as to prevent his defeat. But we can give no sense to 'Thelonius need not have been the son of X and Y' because no man who existed

before the time of his birth (not even if there were then men named Thelonius) was the man we are now calling Thelonius. That is because the man we are talking about was a nonentity before X and Y had their son. Therefore anything which might have affected the career of any man before Thelonius was born to X and Y would have to have affected the career of someone who was not the man we call Thelonius [...] To summarize; Thelonius is but needn't have been the son of X and Y is unintelligible unless Thelonius could have been, done, or suffered something before he was born to X and Y. But this is impossible because he did not exist before his birth to X and Y. Therefore, it makes no sense to say that he needn't have been the son of X and Y.⁸

Kripke makes the more general observation that:

Ordinarily when we ask intuitively whether something might have happened to a given object, we ask whether the universe could have gone on as it actually did up to a certain time, but diverge in its history from that point forward so that the vicissitudes of that object would have been different from that time forth. Perhaps this feature should be erected into a general principle about essence. Note that the time in which the divergence from actual history occurs may be sometime before the object itself is actually created. For example, I might have been deformed if the fertilized egg from which I originated had been damaged in certain ways, even though I presumably did not yet exist at that time [...]⁹

It can be asserted that any change occurring in the universe some time before my origin, whenever this took place, could not have changed my origin, or caused some later change to me unless my (spatio)temporal path was the same, at least at the outset. When making counterfactual claims about persons (or other individuals) we ought, on this view, to be asking either how their histories might have forked, or at least how, within the same general (spatio)temporal path, the individual might have had some different characteristic.¹⁰ If this view is correct it will not be sufficient, in imagining a possible origin for myself, to imagine exactly similar gametes in different parents, composed by some amazing chance of the same subatomic particles; or even the actual gametes of my actual parents, combined in some other time and place from those in which they did combine. For neither of these alternatives would involve the grafting of possible histories on to my actual history.

The theory of the necessity of our time of origin, in addition to our 'generation system', can be illustrated with reference to the fact that human gametes can be

frozen and stored before they are combined. If the gametes which combined to form me had instead been frozen for 300 years, and then combined to form some person, this person would not be me, as her life would not coincide with mine at any point whatsoever. If, on the other hand, my life, having once begun, had been 'put on hold' through freezing, then my life in the 23rd century, while presumably different from my life in this century, would be a continuation of this life. A cake could be frozen for 300 years, just as a cake could be made today from 300-year-old ingredients. It does not, however, make sense to point to a cake fresh from the oven and say 'that very same cake might have been 300 years old'.

One rather startling consequence of the necessity of my original spatiotemporal setting is that I would not have existed had my parents' gametes combined even seconds earlier or later than they did; or even had they combined at precisely the same time, but in a different place (say, a test-tube). The result of such a combination would be my genetic double, and her life would doubtless be similar in many respects to my own. The same could be said, however, of my actual identical twin (if I have one), or of any counterfactual twins who might have come into being as the result of the division of an embryo which did not in fact divide. Similar individuals can always be distinguished by their time and place of origin. Even if identical twins, supposing their bodies to originate on the division of the pre-existing embryo, will arise from the separated halves of that embryo - and thus in (or in relation to) different places, if not at different times. My twin, while resembling me in various ways, could not have been me, with my body, and my origin.

Persons, we believe, are entities which we can, in principle, trace backwards and forwards in time. Normally we base our view of what might have happened to a person on the actual history of that person. If we unmoor the identification of a person from the tracing backwards and forwards of the person's actual history, it is

hard to know how we are to distinguish possible histories of that person from possible histories of others. Whichever position we take on the necessity of origin, we will need to be able to distinguish, in counterfactual situations, between identical and exactly similar entities.

It may be argued that sameness of matter provides sufficient individuation. Could not my twin and I be identified, in some counterfactual situation, by reference to the matter from which each of us came into being? It is, of course, true that two individuals could not result simultaneously from the same collection of matter - say, the same half of an embryo. However, they could perhaps originate at different times from at least the same subatomic particles. To say that I am any person first made up of those particles, or even the first person of a certain type, seems somehow unsatisfactory. Moreover, if it is the matter alone which individuates the entity, then we will need some way of individuating the matter to ensure that it is indeed the same matter we are imagining. It is hard to see how we can do this except by tracing the matter (or each individual particle) through its actual history in time and space, and then imagining that this actual history diverges at some stage after its origin. To anchor our thoughts on whatever matter was present in some time and place at some stage later than its origin will not be sufficient to individuate this matter, since a similar collection of matter might surely have been there in its place.

The identity of the matter is therefore anchored on its origin. The question now arises why in the case of matter, but not in the case of the entities it constitutes or gives rise to, we require that its conceivable history coincide at the time of origin with its actual history. Is it enough to say that matter, at least at the subatomic level, cannot be broken down further, and thus individuated in some alternative way? For if what we are primarily interested in is the human person, and if we know that origin is necessary to individuate some things, might not the origin of the person be

necessary to individuate that person, in addition to the origin of what first constitutes the person or her body?

How does the defender of a 'bare locus' position respond to theories on the necessity of origin? Madell concedes that the original matter is a necessary condition for the identity of objects, including living bodies. But, Madell says, I am not an object to myself, and no such constraints on my identity apply:

What ought to be central to discussion of personal identity is the fact that this 'person-as-object' view is impossible to grasp from the first-person perspective. I cannot, to begin with, imagine what it could be to be such an object. The necessity-of-origin thesis is incomprehensible from this perspective. It is not just that everyone can easily imagine having been born earlier or later; it is also that the thesis implies that had the series of experiences leading up to my present state of consciousness had a different origin then this present state of consciousness would not have been mine; and that's as incomprehensible as anything could be. And the claim that, while this line of experiences stretching back into the past might have been different in all sorts of ways, it just could not have started earlier or later than it did is one which is utterly opaque. There is solid argument for the necessity-of-origin thesis as it pertains to objects. We do not know what it could mean to say that there is a possible world in which this very same oak tree grew from a different acorn; we have no idea what could pick it out as the very same oak tree. But there is no such argument available in the case of persons.¹¹

I would argue that, on the contrary, the cases are parallel. It would not be the same oak tree if it had had a different origin, and the subject of experience would not be me, if she had. What we should note, however, is that any state of consciousness which had a different origin would not have been 'this present state of consciousness' - any more than an oak tree which had a different origin would have been 'this very same oak tree'. Any suggestion that this present state of consciousness might not have been mine is certainly incomprehensible; nor can I imagine experiencing a mental state which was not mine, as I can imagine myself confronting a different oak tree. This is indeed a difference between the two cases, in so far as I cannot imagine 'from the inside' an experience which was not mine, in the way I can certainly imagine a different experience for myself.

If my subjective viewpoint is an attribute of me, and I do in fact have a necessary origin, then any thought-experiment will in fact be incoherent if it involves a person with a different origin, but my subjective viewpoint. Madell believes that while restrictions on origin are essential, for the reasons Forbes gives, in the case of objects, these reasons are not available in the case of my identity since, in the event of two claimants to be me, I would always be able to tell which one of them actually was me by the fact that I found myself looking out from one body rather than another.¹² To this it could be objected that while it is true that my subjective viewpoint can be used, by me, to distinguish between my twin and myself, this is not the only way in which we can be distinguished, whether by ourselves or by third parties. We can always be distinguished by our necessarily separate origin, in every real and counterfactual situation, including one in which neither of us is looking out at the world, though each source of a point of view exists.

Madell's claim with regard to the line of my experiences appears perhaps more plausible than it should, due to our permissive identity conditions for series of separate events. It is possible to say that even a 'particular' series of explosions at a factory might have begun earlier than it did, if we mean by this that the actual explosions might have been preceded by earlier explosions (supposing the later explosions to be free-standing). Moreover, there is a loose sense in which 'the explosions', like 'the re-unification of Germany' refers to 'any explosions/re-unification that might have occurred around that time'. In the case of personal identity, however, we begin, at least, by inquiring into the history and possible history, not of roughly similar experiences, but of the person whose experiences they are. And while the person might or might not (depending on our view of persons) have begun to think earlier than she did, I am arguing that she could not, in either case, have begun to exist earlier than she did.

One who believe that we are series of experiences might, unlike Madell, see our entire mental history as constitutive of our strict identity, and any changed or diminished version as 'me to some extent'. The series theorist might maintain (again unlike Madell) that had none of the experiences taken place, I would not have been present - not to any extent. The series theorist might also claim that, notwithstanding the fact that certain early experiences might or might not have occurred, so that the series might have begun earlier or later, elements of the series themselves have essential characteristics. For example, no individual experience might have taken place at a different time from the time it did take place. Moreover, one experience would very often be causally dependent on another, in the way that Elliot suggests is the case with 'person-stages':

The idea is that a later person-stage, y, is who he or she is, because an earlier person stage, x, of the same person, is who he or she is. y would not exist had x not existed. One way of fleshing out this idea is in terms of causal dependency - had x not appropriately causally engendered y then y would not have existed. What might have existed, had x not existed, is an individual exactly similar to, but not identical with, x. It could not be identical with x since its origin is different from the origin of that person whose first stage would have been x, had x existed.¹³

Such causal considerations should make us wary of imagining for ourselves alternative biographies which are completely different from our actual biographies. Just as certain experiences (say, hearing the voice of person A) could not have been caused by anything else (say, the voice of person B), perhaps the fact that I come to exist is necessarily related to my body, and therefore to its origin, whether or not the two coincide. The coming-to-be in relation to the body could be seen as a condition as necessary for the existence of any immaterial self as is the coming-to-be in relation to the body of some individual experience.¹⁴ Thus Kripke may be premature in claiming that

my view [...] that a person could not have come from a different sperm and egg from the ones from which he actually originated implicitly suggests a rejection of the Cartesian picture. If we had a clear idea of the soul or the mind as an independent,

subsistent, spiritual entity, why should it have to have any necessary connection with particular material objects such as a particular sperm or a particular egg?¹⁵

We could not infer from the premise that our minds are separate from our bodies - or even the premise that our minds need not maintain some tie to our bodies - that they need never have had such a tie. For perhaps we should agree with Locke that mental no less than physical substances are distinguished by their origin.¹⁶ Supposing disembodied spirits to exist, they could be distinguished at least through the time and/or cause of their coming into being. In the case of ourselves, a connection to a body, and hence to a certain time and place, might or might not be thought to be essential to the mind, depending on our view of their causal relations. If, for example, mind and body were thought to originate simultaneously, it would seem hard to deny that there was some causal connection between them. Even if it was the mind which was thought to cause the body, might it not still be identified as the mind of that body? It could, of course, be claimed that the mind or self preexisted the body, in which case the origin of the body would indeed be inessential to the mind. But a dualist who claimed that the body (perhaps in conjunction with something else) somehow gave rise to the self after its own coming-to-be would have to admit that not only the time of origin of the self, but at least some elements of the history of the body were essential to its identity. For example, the origin of that body would be necessary, if not sufficient, for the origin of that self.

We began the chapter with the point made by Johnstone that psychological approaches to personal identity, with the thought-experiments they involve, can lead us in the direction of a theory according to which we are loci of experience of some unspecified kind. And in fact, just as we can imagine histories for animals incompatible with their nature - pigs flying, for example - there is no reason to think that we cannot also imagine histories for ourselves which are incompatible with our nature. As Nagel puts it:

What I imagine may be possible in so far as what I know about my nature is concerned, but may not be possible in so far as my actual nature is concerned [...] it is the mistake of thinking that my concept of myself alone can reveal the objective conditions of my identity that leads to the giddy sense that personal identity is totally independent of everything else, so that it might even be possible for you and me to switch selves although nothing has changed [...] ¹⁷

Nagel's first observation can be used to counter the view that 'this person here' provides all the individuation we need, as evidenced by the fact that we are able to refer to the same individual while disagreeing about his dates.¹⁸ It is, of course, true that we can identify individuals in many real situations without knowing their origin. It is also true, however, that much of what we believe about our focus of interest may be, not merely wrong, but necessarily wrong. For all I know, the human figure I see vaguely in the desert may be an old man, or a mirage. But if that figure is you, at what stage in your existence might you have been a mirage, or someone born in 1900? There are essential facts about an individual, which may not appear among our stock of errors and the inessential facts we use to fix the current reference. For example, while whoever I point out is trivially someone I point out, it might easily have been the case that I failed to point that person out, without the slightest prejudice to his existence. In contrast there are features which the person could not have lacked, and features he could not now lack, and continue to exist.

Something more should be said here on the relationship between our essential features and the thought-experiments we use in endeavouring to discover what these are. Many such experiments assume what they aim to prove: that persons are the kinds of beings who could in principle split in half, be transferred piecemeal, body-swap, and so on. If persons are nothing more than, for example, their experiences, then we ought to accept the theoretical possibility of partial or multiple survival. But it may be that persons, in view of their actual makeup, cannot be divided and multiplied in this way - in which case little can be shown about persons by asking what we would say 'if they did'. Our beliefs about whether persons could

be divided and multiplied may provide some insight into our other beliefs about persons. However, our ultimate concern is not our beliefs about persons (which in any case can be expected to vary to some extent) but how well these accord with our actual nature.

Haksar in discussing these questions draws a distinction between claims about ourselves which he says are based on our experience, such as the claim that a person might have had a different psychology, and those which are not, such as the claim that fission is possible, or survival through the mechanical transfer of thoughts. If information could be transferred and selves emerge in this way, then the non-reductionist view would have to be abandoned. But if some non-reductionist view is in fact correct, then situations such as these are intrinsically impossible:

[...] it would be consistent to take the line that if persons are persistent indivisible selves then what ultimately matters for personal survival involves the survival of indivisible selves, along with the survival of other things such as one's memories and dispositions; whereas if there are no persistent selves then what ultimately matters is not the survival of the persistent self but the survival of one's memories and dispositions [...] though imaginary examples can sometimes reveal our beliefs about personal identity, they cannot verify or falsify them. But one has to be careful in seeing what they reveal. They do not reveal that we believe in reductionist survival. At most they reveal that if fission, etc. were possible then reductionist survival would be what matters.¹⁹

Certainly if we assert that persons are indivisible psychological substances, or necessarily involve indivisible psychological substances, or are, as Haksar believes, simple indivisible selves with both a physical and a psychological aspect, we deny the possibility of gradual changes of identity, such as those seen in Parfit's Psychological and Physical Spectra.²⁰ In the case of small subtractions and substitutions to my brain (Parfit's Physical Spectrum) there will come a point at which the relevant substance either will, or won't, be present. After all, it does seem that if substitutions are not made, I will eventually die after one tiny subtraction. Parfit himself comments:

Suppose that the cause of psychological continuity was not the continued existence of the brain, but the continued existence of a separately existing entity, like a Cartesian Ego. We could then claim that, if we carried out such operations, the results would not be as I have described them. We would find that, if we replaced much of someone's brain, even with dissimilar cells the resulting person would be exactly like the original person. But there would be some critical percentage, or some critical part of the brain, whose replacement would utterly destroy psychological continuity. In one of the cases in this range, the carrier of continuity would cease either to exist or to interact with the brain. The resulting person would be psychologically totally unlike the original person.²¹

In fact a psychological substance theorist could go farther than this, and deny that any person will result from the operation, in the absence of a replacement psyche. Splitting into rival persons will be likewise impossible on a psychological substance theory. Even if some indivisible psychological substance could be imagined to communicate simultaneously through two living bodies, this would not count as the emergence of two moral subjects. Theories which make the psyche the 'life-principle' of the body would rule out even this situation as intrinsically impossible. What should we say about theories according to which, while the person's existence necessarily implies, at one time, the existence of a particular body, a person could survive in association with a different body - or, perhaps, with no body at all? If we might not have been without our actual bodies at our origin, might we lose them without ceasing to be?

To suggest that we could change or lose our bodies while remaining the same kind of being is to suggest that whatever laws underlie our unified functioning, they are not those which define a substantial kind. There is surely no reason to believe this. I would argue that as human persons we are biological units, so that whatever might be thought to survive our physical dissolution, it would not be the psychophysical unit 'human person'. We can, however, imagine different kinds of person, with their own identity conditions. The term 'person', as opposed to 'human person', can be used as a very general, non-biological moral term; one which could accommodate even non-physical beings. If we assume that human persons are a biological kind of

their own, we avoid the problems brought to our attention by Lowe,²² who argues that if persons in general are a biological kind, then two otherwise totally different rational species would have to be classed together as one biological kind, having somehow evolved identical laws of operation, though species closely related to either have not.

Persons involving human bodies would certainly appear to qualify as substantial units, with their own irreducible laws of functioning, conditions of identity, interests, and so on. The union of mind and body, even should mind survive the body, is obviously of enormous importance. The parting of mind and body, should this in fact be possible, would be a truly catastrophic change. It would affect not only everything else about us, but all 'our' relations with others and all their duties to 'us'. Even if some core continuant should persist, enabling us to speak of 'our' survival in some sense, it would not follow that 'human' as opposed to 'ex-human' persons do not have their own conditions of existence. Moreover, if 'human person' is a term with moral content, is this content so unspecific as not to make reference to the fact that we can be physically harmed? Or is harm to my body, however massive, only indirectly harm to me?

Such questions will be left to a later chapter. We will end by reminding ourselves of the perennial problems of dualism. Dualism does not describe us as we think we are; beings who may be the subjects, not only of mental, but also of physical descriptions. Thus it seems bizarre when, for example, Lowe claims that the self must perceive through parts of its body to make them its own: that at times when (during illness, say) I am unable to feel through some part of my body, that part is not really a part of my body.²³ It is equally bizarre to suggest that what everyone takes to be me - the physical person - might not in fact be me; nor even part of me. I can recognize myself

neither as the bodiless mind, nor as the mindless body into which dualism divides me.

Yet whatever the shortcomings of theories according to which we are mental substances, such theories nonetheless have, I would argue, the advantage over strongly reductionist theories. If a person is neither a body, nor a mental substance, nor a substance with both mental and physical characteristics, we are left without a subject who can pass in and out of consciousness, and who can suffer harm during its absence. A psychological substance provides a more plausible candidate for moral status (and indeed, for existence itself) than does some ownerless thought or thought-series. Moreover, any substance theory allows us to say, as we do, that changes may take place in us, new thoughts occur, without this affecting our very existence.

We have seen that our origin in connection with our bodies gives us some protection against our wilder flights of fancy. Though on some dualist views I might yet become a Martian, I might not have come into being as a Martian - or as my twin. In the next chapter we will be looking at theories according to which our existence as persons not only requires, but involves at all times, the existence of our bodies.

Notes

- ¹ Mark Johnstone, 'Human Beings', Journal of Philosophy 84 (1987), pp. 59-83.
- ² Geoffrey Madell, 'Personal Identity and the Idea of a Human Being', in David Cockburn (ed.), Human Beings (Cambridge: Cambridge University Press, 1991), pp. 127-142.
- ³ Geoffrey Madell, The Identity of the Self (Edinburgh: Edinburgh University Press, 1981), p.90. Conversely, Madell believes, a life could be exactly similar to mine in every objective respect, origin included, and not be mine.
- ⁴ Geoffrey Madell, Mind and Materialism (Edinburgh: Edinburgh University Press, 1988), pp. 140-141.
- ⁵ Saul Kripke, Naming and Necessity (Oxford: Blackwell, 1980), p. 112.
- ⁶ Graeme Forbes, 'Origin and Identity', Philosophical Studies 37 (1980), pp. 353-362.
- ⁷ Robert Elliot and Andre Gallois, 'Would It Have Been Me? (Against the Necessity of Origin)', Australasian Journal of Philosophy 62 (1984), pp 292-293.
- ⁸ James Bogen, 'Identity and Origin', Analysis 26 (1966), p. 163.
- ⁹ Kripke (1980), p. 115 n. 58.
- ¹⁰ Perhaps one of the gametes which produced me might previously have undergone the loss of some item of genetic information. If it is, in fact, true that this might have changed my history, it must be the case that the feature which I might have lacked is such as neither to be essential to the existence of any person, nor to dislodge the person in question from my original spatiotemporal position.
- ¹¹ Madell (1991), p. 128.
- ¹² Ibid., pp. 85-87.
- ¹³ Robert Elliott, 'Personal Identity and the Causal Continuity Requirement', The Philosophical Quarterly 162 (1991), p. 74.
- ¹⁴ It is interesting that Parfit seems inclined to accept some version of the necessity of origin, while leaving it open how much latitude he would allow as to time of

origin, and presence of both gametes. Parfit observes that it may be claimed, not only on the Physical, but also on the Psychological Criterion of personal identity, that 'it is essential to me that I grew from a particular pair of cells, and that I therefore started living in a particular body.' This would, he says, be compatible with the belief allowed for by the wider versions of the Psychological Criterion, that our lives could continue in different bodies. (Derek Parfit, Reasons and Persons (Oxford: Clarendon Press, 1984, p. 522 n.6.)

- 15 Kripke (1980), p. 155 n.77.
- 16 John Locke, Essay Concerning Human Understanding 11 Chapter 27
- 17 Thomas Nagel, The View from Nowhere (New York: Oxford University Press, 1986), p. 42.
- 18 P.F. Strawson, Individuals (London: Methuen, 1959), p. 38.
- 19 Vinit Haksar, Indivisible Selves and Moral Practice (Edinburgh: Edinburgh University Press, 1991), p. 154.
- 20 Parfit (1984), pp.231-243.
- 21 Ibid., p.237.
- 22 E.J. Lowe, 'Real Selves: Persons as a Substantial Kind', in David Cockburn (1991), p. 92.
- 23 E.J.Lowe, 'Substance and Selfhood', Philosophy 66 (1991), pp. 87-88.

Personal Bodies

The origin of our bodies, it was argued in the last chapter, is at least a necessary condition of our existence as persons. Even if human persons are minds or series of experiences, their origin in connection with a certain human body may be a necessary feature of these minds or these experiences. There are requirements which anchor us to our own time in history, reassuring us that however long we live into the future, we could not have lived in 3000 B.C. Theories involving substances were seen to have various advantages. Not only do they provide us with a continuing subject of interests, but in allowing the person to undergo change without loss of identity they confirm us in our belief that we might have spent the last few decades differently from the way in which, in the event, we spent them.

We will now look at theories according to which our bodies are not merely a precondition of our personal existence (like, perhaps, the bodies of our parents) but rather should be said to be us. There are laws which relate to the persons we are, made up of the kind of body we have, and not of the kind we merely imagine. By bodies we mean, of course, living bodies: biological systems. Our respect for corpses surely refers to the status of living persons, not to that of the corpse itself. And the history of the mere aggregate of matter which may (briefly) outlive the human being is not of any moral importance.

We may be inclined to draw some further distinctions. Theories of personhood always, or nearly always, refer in some way to our rational, or at least, our mental life. We have looked at some of the problems involved in taking our actual thoughts to be essential to our existence as persons. Yet it does seem likely that personhood has something to do with our mental life, if it does not require our actual, contingent, often quite disintegrated episodes of mental activity.

A condition of our existence often suggested is mental capacity - though this may be applied to a period of 'pre-personal' existence. As Peter Unger puts it:

[...] For you to exist at a future time, you must exist, continuously, from now until then. For that to be so, there must be the continuous existence, from now until then, of your particular basic mental capacities. For there to be the continuous existence of just those capacities, there must be, in this wholly or largely physical world of ours, the continuous physical realization of them in a physically continuous realizer or, at the least, in a physically continuous succession of physical realizers. Consequently, for you to exist at a future time, there must be appropriate physical continuity.¹

By 'basic' capacities Unger understands the capacities for consciousness, which he says constitute our 'core' as opposed to our 'distinctive' psychology.² While we may very much want to retain our distinctive psychology, we nonetheless have interests such as that in avoiding pain which are present when only our core psychology remains.

Warren Quinn, taking a similar approach, observes that

[...] if we distinguish between the mental faculties that are developed as a normal human infant collects and sorts experiences of himself and the world, that is the mental faculties that the infant or child comes to have in virtue of the learning he has done, from the underlying mental capacities that make this learning possible, it seems attractive to identify the latter as what is essential.³

Having looked at theories according to which a body is 'owned' by a thinking person, we may be sympathetic to the suggestion that an organism can itself think,

feel, and so on; that to treat the living body as incapable of thought is to engage in an abstraction. Only if a living body is a 'fully real organic subentity' can we accept the view that 'the foetus is the beginning of the body of an as yet non-existent human being.'⁴ The words are those of Quinn, who goes on to claim that

When man is seen as a single organism capable of a wide repertoire of behaviour varying from the metabolic and automatic to the intentional and cerebral [...] the primitive organism is seen as something which in the course of *its* normal development will take on new physical, psychological, and eventually rational powers. It will first acquire a form and capacity that will qualify it as animal; and it will subsequently take on mental, emotional and volitional powers that will qualify it as a human being. But through all these changes it will remain one and the same biological organism.⁵

If our actual thoughts are not essential to our existence, how early in development are we moral subjects present? The question is, of course, often raised in connection with the moral questions of abortion and embryo experimentation. Quinn argues that the intuition that even early abortion stands in need of some justification

will seem to have serious weight only if the fetal being affected by abortion is thought to be capable of receiving morally significant harms and benefits. If the foetus were viewed as a special kind of short-lived individual destined at birth to fade from existence as the human being replaces it, or as the early stage of a complex piece of biological machinery which a human being will only later come to possess, abortion would seem to pose no serious moral problem. It seems then that [this intuition] demands a theory in which the future human being in some sense already exists in the foetus.⁶

Once again, we are faced with the question of whether persons are substances. Many of us do think of persons as what we are essentially, so that any time we exist we are persons, in possession of inalienable rights (or at least, of inalienable moral status). This view, however, has consequences we may be unwilling to accept. For if we are linking personhood to some current mental capacity, we will want to say that the organism, at some stage of development, acquires whatever capacity is essential to a person. The organism which acquires this capacity surely goes on existing even after the appearance of the person. Thus we find ourselves faced with not one, but two

psychological beings - the organism and the person - existing in one place simultaneously. If we reject this startling picture, we must claim either that 'person' is not a substance sortal, or that fetuses are persons before they are sentient, or that with the development of the fetus a new substance - a person - starts to exist, so that we persons never were fetuses.⁷

Jim Stone describes the problem in the following passage, treating 'person' provisionally as a phase sortal referring to the animal when it is rational:

We might say, following Locke, that a person is 'a thinking, intelligent being, that has reason and reflection, and can consider itself as itself, the same thinking thing in different times and places'. Now I think it very strange to say that adult human animals are not self-aware, that these capacities are realized by yet another thing, so it seems reasonable and ontologically conservative to identify the beings which have reason, reflection, and self-awareness with human animals. That is, human animals which have reason, reflection and awareness are persons. But then, as the animals which exhibit these capacities existed before they had them and were once fetuses, persons existed before they were persons and were once fetuses. Persons aren't numerically different entities which fetuses produce, they are fetuses at a later stage of development; hence fetuses will be self-aware when they become persons. If I am identical to a person, it follows that there is a person and I have all of his properties. But this person existed before he was a person; indeed he was a fetus. Therefore if I am identical to a person, then I am not essentially a person, for persons aren't essentially persons.⁸

Stone goes on to consider the view that a person is constituted by the animal during some part of its history, as a statue is constituted by a lump of bronze during part of its history. In this case, says Stone, the properties of the person will be parasitic on those of the animal:

[...] if a person is constituted by a human animal they both have mental states, self-awareness, and so on; the person is nothing more than the human animal; it is a metaphysical epiphenomenon which owes its non-modal, non-temporal properties to the properties of the human animal. Consequently, while the fetus isn't identical to the person who will think, feel, and be self-aware, the fetus is identical to the human animal which will think, feel, and be self-aware. So the animal which is a fetus will be self-aware even though it will never be a person.⁹

In the same way, it is no solution to identify the person with a stage or temporal stretch of the animal's life. For a temporal stretch, Stone argues, can do nothing; all thoughts and actions must be ascribed to the animal itself.¹⁰

It is sometimes claimed that, in view of the continuity of human development, we should be looking for the gradual appearance of a person, or (as some would say) a human being. Quinn, attempting to justify a common intuition that the foetus has some moral importance, though less than that of the later human, considers at length both the 'stage' theory, and the theory that humans are substances, but come into being by degrees, like a house under construction. As Quinn puts it:

The foetus could be identified with the collection of biological materials in the process of being transformed into a human being; it could be identified with the human being that is coming into existence; or it could be seen as yet some third kind of object that either gradually ceases to exist as the human being becomes increasingly realized or that continues to exist throughout the human being's life as a constituent entity.¹¹

Quinn considers the first and third possibilities unlikely, and proceeds to focus on the second. What best characterizes the foetus, or house being built, is their partial entry respectively under the substance sortals 'house' and 'human being'. 'Organism' is not, he says, a true substance sortal, since it covers both the foetus and the later human, failing to make a distinction between full and partial instantiations of the human being. In the same way that 'construction' covers both the completed house, and also the house under construction, 'organism' covers both the completed human, and the foetus: the human under construction.

However, it can be argued that Quinn's suggestion does not take sufficient account of the differences between biological and artefactual entities. For whereas the latter are characterized with reference to the envisaged product, more and more fully instantiated by the emerging artefact, the former are characterized with reference to

current active tendencies, and thus to conditions met fully in the present. Organisms are often described as self-organizing wholes, and thus as beings which cannot exist in degrees. (Nor, for this reason, can they be seen as mere aggregates of materials, as in the first alternative Quinn mentions). The biological term which best characterizes the foetus is not 'human under construction' but 'immature human organism'. Moreover, organic tendencies will often refer to short and long-term interests which are in some way internal. In contrast, with the artefact everything hangs on its ultimate state - on how well it will meet our specifications. Quinn himself seems to feel a certain tension here, for he says that

A fetus is indeed a fully fledged organism, but this is quite consistent with the claim that such a full-fledged organism is not a fully real individual. One must not be misled by the fact that the incipient human being gets a secure status as a coherent continuing object of biological interest before it is a fully real individual.¹²

Quinn later considers some of the moral implications of the 'process' theory, and his alternative theory that 'human being' refers to a protracted stage of the human organism:

[...] the process theory gives a somewhat different result from the stage theory. To the extent that the human being already exists it is susceptible to the loss of future life and its rights under humanity come into play. But to the extent that it does not yet fully exist it cannot, it would seem, suffer this or any other loss and is to that extent removed from moral consideration.¹³

Again, Quinn's account seems rather strained. For just as it seems odd to claim that a life both is, and is not, my own, it seems odd to claim that something both is, and is not, in my interest (at least where the benefit itself is unambiguous). Can one half-miss out on a benefit that is only half one's own? Perhaps if persons are seen as units composed of mind and matter I could anticipate some harm to my disembodied mind - my mind being seen as the 'carrier' of some non-physical interest.¹⁴ However, here Quinn appears to be claiming that no moral subject is wholly present at the

earlier stage of human development. So here we have not too much moral subject at the earlier stage, but rather, not enough.

We will be looking in more detail at interests in a later chapter. Perhaps we should note in passing that it seems especially odd to suggest that there is some natural process in view of which an interest in one and the same benefit continues to increase, or at least, to increase in moral significance. The latter possibility is perhaps conceivable if special factors intervene - as when, for example, I perform a series of heroic acts, each one of which increases my deserts. But since Quinn does not require that a human have actual experiences, but only some capacity for these, what is the basis on which he accords the early organism ambiguous interests in unambiguous (if long-term) goods?

A more general problem with 'gradualist' theories of personhood is the difficulty of knowing where, if anywhere, to stop. For example, do we ascribe higher and higher personal status to those with greater and greater capacities, while the status of others is correspondingly low? Or do we draw some line to mark off persons from 'quasi-persons', and if we do, will it not look unpleasantly arbitrary?

It can, of course, be claimed that whereas some capacities are a matter of degree, other capacities are not. For example, there is the proximate structural capacity, not for reason, but for experience of some kind. Will there not be a point, however difficult to determine, at which the developing organism completes a certain structure and can now, in some environment, have an experience?

It is, however, doubtful that we can lay such stress on a capacity which seems to be shared by many lower animals. Moreover, the theory leaves unexplained why killing, for example, should be wrong, if the method will not in fact be painful: if the

organism will not feel, and perhaps has not yet felt, anything at all. And with regard to interests in later, experienced goods, can we not push such interests back before the advent of sentience? For example, does not the animal now have an interest in avoiding a painful death at such time as it will have acquired the structure for experience?

The problem with all theories which make personal status depend on the acquisition of some capacity is that the individual who will acquire the capacity seems already a likely candidate for the relevant status. For example, what if I do not have the structure with which to feel, but an operation will make me immediately sentient? Do I not have some kind of interest - conceivably even a right - with regard to such an operation? Or what if I, the organism, am just seconds away from the natural acquisition of some capacity? The same animal which acquires the capacity for experience might reasonably be said to have an interest in acquiring it. Can it be true that I have an interest, or right, with regard to some benefit only when some last piece of neurological circuitry is completed, and not before, although I am present throughout?

Or what shall we say when capacities come and go in the same individual? Imagine a situation in which a patient with brain-damage awakes from an operation which has restored his capacity to learn, as soon as the environment is favourable. He is now in the mental condition of a very young baby. Are we to insist that, due to the gap in the presence of learning capacities (though there was no gap in the presence of various other capacities) this is not the same person who suffered brain-damage? That the person who suffered brain-damage had no interest in the operation - and that the emerging person has, at least *prima facie*, no moral right to the previous individual's house or insurance money? If we do not say this, why should we wait for the first appearance of the proximate capacity to learn?

Of course, it is always possible to claim that a person comes into being suddenly through substantial change, so that a capacity first appears, not in the foetus, but in the being who supplants it. We will be looking further at this possibility in a later chapter. However, it seems unlikely, given the smoothness of developmental changes, that the completion of one normally pre-programmed organic refinement should be enough to create a new being and eliminate the old one. It might be replied that our actual first experience marks the appearance of something new: the mind or soul of the organism. Yet here we must ask again if the new-found person remains in being in between experiences, and if so, why he or she might not have existed before the first of these took place. Moreover, there are further problems with substantial change if we take a hardline position on the necessity of origin. Not only must we deny that it was the pre-existing being who felt or acquired the capacity to feel. We must also insist that for me to have existed at all, I had to have had that first experience (or come into being with that capacity) at exactly the moment when I did. If development had been slower, or the chance for thought had arisen later, I would never have existed.

It is important to recognize the continuity existing between the emerging structures and tendencies of the organism, and preexisting structures and tendencies. Just as the infant's structure and the infant's experience give rise to those of the adult, so too there are tendencies which give rise to all these; on the face of it the tendencies of one surviving being. A question we should be asking is whether these early tendencies might not be integral to the early person.

Before attempting to answer this question, we should consider a final suggestion with regard to the significance of the capacities of the brain. We have focussed up to now on the suggestion that what is essential to our personal existence is the capacity for some kind of mental activity: a capacity requiring a well-developed brain. But

what if the essential capacity is rather the capacity for any kind of brain activity at all? For the brain is, after all, the organizer of the body, controlling not only consciousness, but all other organic activities. So important is the brain that many philosophers have considered it both necessary and sufficient for survival; always supposing the brain (with whatever capacity is believed to be essential) could be kept alive without the rest of the body. Humans are normally thought to die with the death of our brains.¹⁵ Are we, then, alive before our brains have started to function?

Baruch Brody,¹⁶ after raising this question, argues that brain function can be used to identify our origin as well as our demise. Brody does not specify what kind of function is needed; however he does claim that a spontaneously moving human certainly has a sufficiently functional brain.

The objection to this claim lies in the fact that the absence of brain activity signifies something different in the early organism from what it signifies in the adult. Whole brain death is a far more comprehensive phenomenon than the commencement of brain activity in an existing organism. Whole brain death refers to the fact that the organism has ceased to exist, having ceased irreversibly to function as a whole. In the mature organism the brain-stem is essential, not just to support consciousness (for which the neocortex is usually also said to be required) but to support the countless other functions of that organism. Should these functions be totally maintained by foreign input - by a machine, say, after 'whole brain death' - there will not be a living body which is organizing itself, but a collection of parts on which some external direction is imposed.

In contrast, before the commencement of brain activity the organism is already functioning as a whole. It is only in the relatively mature human organism that the

brain is necessary for life. The organism, before the brain is begun, let alone completed, has certain tendencies some of which may be morally important. On this point Daniel Callaghan, in answer to Brody's suggestion, argues that

In the case of an irreversible coma (signalled by a flat EEG), it is not the coma as such but the irreversibility which is the critical condition. For with the death of the brain [...] comes the loss of all potentiality for personhood [...] In the instance of a zygote or early embryo, however, even before the advent of brain waves - the potentiality for personhood exists.¹⁷

Countering this objection, Brody gives the example of an adult human brain which is liquefied and then 'recast' to form a new and working brain. Brody claims that any potential of the liquefied brain to be recast would not signify the survival of a person:

[...] consider the entity whose brain has died. Is he not like the foetus? Both have the potential for developing into an entity with a functioning brain (we shall call this a weak potential) but neither now has the structure of a functioning brain. We can conclude, it seems to me, that an entity can go out of existence even if it retains a weak potential for having a functioning brain, and that, analogously, the foetus is not a human being just because it has this weak potential. What is essential for being human is the possession of the potential for human activities that comes with having the structures required for a functioning brain.¹⁸

It is clearly time to look in more detail at different kinds of potential, and at their significance for the existence of organisms, and of persons.

Notes

- ¹ Peter Unger, Identity, Consciousness and Value (Oxford and New York: Oxford University Press, 1990), p. 116. Here Unger is concerned with our existence per se, not our existence 'as persons', since he believes it is possible that we existed before we were persons; i.e., as very young foetuses (pp. 6-7).
- ² Ibid., pp. 92-97.
- ³ Warren Quinn, 'Abortion: Identity and Loss', Philosophy and Public Affairs 13 (1984), p.33.
- ⁴ Ibid., pp. 28-29.
- ⁵ Ibid., p. 30.
- ⁶ Quinn (1984), p. 26.
- ⁷ W.R. Carter, 'Do Zygotes Become People?', Mind 91 (1982), pp. 78-79. See also Carter, 'Once and Future Persons', American Philosophical Quarterly 17 (1980).
- ⁸ Jim Stone, 'Why Potentiality Matters', Canadian Journal of Philosophy 17 (1987), pp. 824-825.
- ⁹ Ibid., p. 825.
- ¹⁰ Ibid., p. 825 n.21.
- ¹¹ Quinn (1984), p. 38.
- ¹² Ibid., p. 39.
- ¹³ Ibid., p. 53.
- ¹⁴ What interests might be thought to persist with ghostly 'survival' - where 'survival' would refer not to me the human person, but to some part of me? Some interests of that part (my mind) might be said to survive in 'my' ghostly interests after death. What of interests which refer to material things, such as an interest in reincarnation? This is an interest in a quite atypical sense; one which unlike, say, my childhood interest in survival, is contingent on the emergence of a different kind of being, of which the present 'me' would again be only a part.

- ¹⁵ On the reasons for retaining a definition of death according to which the death of the whole brain is taken to signify the death of a patient, see David Lamb, 'Brain Death and Brainstem Death: Philosophical and Ethical Considerations', in J.D. Evans (ed.), Moral Philosophy and Contemporary Problems (Cambridge: Cambridge University Press, 1988), and David Lamb, Death, Brain Death and Ethics (London and Sydney: Croom Helm, 1985).
- ¹⁶ Baruch Brody, Abortion and the Sanctity of Human Life: A Philosophical View (Cambridge, Massachusetts: MIT Press, 1975), pp. 107-114.
- ¹⁷ Daniel Callahan, Abortion: Law, Choice, and Morality (New York: Macmillan, 1970), p.389, cit. Brody (1975), p. 113.
- ¹⁸ Brody (1975), p. 116.

Potential

It is often claimed that moral status during early development rests on the potential of the organism.¹ Indeed, it is often claimed that only potential can ground such status, whether in the case of the foetus or in that of the infant. Sometimes this is described as the potential to be a person, and sometimes as the potential of a person. The nature of this potential varies from one account to another. Usually, though not always, it is said to be the potential for high-level abilities such as rationality and self-consciousness. When it is not being claimed that a certain potential makes something a person, it may be claimed that the increasing 'proximity' of such abilities gradually increases the moral importance of the being in question.²

Those who do not accept that potential can have such moral significance sometimes counter that anything can be described as potentially something else. For is not food potentially a person, and a sperm likewise? And if foetuses, for example, have a certain status due to potential, why not the gametes which produce them?

It has been argued that the difference between the two cases lies in the likelihood of the potential being fulfilled. Thus John Noonan emphasizes how very much more probable it is after, than before, conception that a baby will result from the union of two particular gametes.³ In the same way, it may be suggested that the embryo accumulates status over time as the chance of pregnancy loss decreases. There are, however, a number of things which are odd about this approach. To begin with, it

seems doubtful that the mere likelihood of survival or change could cause the rise in status which is envisaged. For example, a child close to starvation may have very little chance of long-term survival. While this fact may affect, say, our distribution of medical resources, it does not follow from this that such a child has a lower status than others - only that this child is less likely to benefit, or to benefit very much, from certain forms of treatment. And can it be true that children in poor countries are less human, or less persons, than children in rich countries?

The likelihood of an adult's dying by natural causes does not mean it would not be wrong deliberately to end his life. Moreover, it is not always true that prospects of survival increase in the course of human development. On the contrary, there are cases in which the developing embryo has a decreasing chance of survival to adulthood. As Michael Lockwood explains:

No doubt one could employ the term 'potential' in such a sense that it is a matter of degree, being given either by the probability that it would develop into a human person, were it to be transferred to a suitable womb, or, if it is already in the womb, the probability of its developing tout court. But it would not then be true in general that an embryo's potential was a function of its age. If an embryo is actually in the womb, at least if implantation has occurred, then the chances that it will become a human person will, to be sure, normally increase the closer it approaches that stage, without being aborted. Nevertheless, any particular implanted embryo at an earlier stage may actually have better prospects than another at a later stage. And more to the point, if we're talking about embryos outside the womb, it isn't true, even, that the older it is the greater is the likelihood that were it to be transferred to a womb it would develop into a human person. For beyond a certain stage, the likelihood that it could be successfully implanted will begin to decline sharply: the time will come when it will, so to speak, have missed the boat. ⁴

Singer and Dawson also make this point, adding that, with the advent of new reproductive technologies, the prospects of the embryo now depend, not on lack of intervention, but precisely on the skilled intervention of adults. Even with skilled intervention these prospects are not good:

In summary, then, before the advent of IVF, it would have been true to say of any normal human embryo known to us that, unless it was deliberately interfered with, it

would most likely develop into a person. The process of IVF, however, leads to the creation of embryos which cannot develop into a person unless there is some deliberate human act (the transfer to the uterus) and which even then, in the best of circumstances, will most likely not develop into a person. The upshot of all this is that IVF has reduced the difference between what can be said about the embryo and what can be said about the egg and sperm, considered jointly.⁵

Singer and Dawson add that the development of new reproductive technologies, such as the activation of the ovum to produce a zygote without a sperm and the micro-injection of particular sperm into particular ova, will mean that the entity or entities to whom potential can be ascribed will be already determined. The unfertilized ovum, alone or considered jointly with a particular sperm, will already have a certain genetic potential.

It is clear that in the search for some morally relevant potential a number of distinctions will have to be drawn. Perhaps we should start by distinguishing between a potential X and a possible, or future X. My great great grandchild, who does not yet exist, is not a potential, but a possible, or future person. Potential Xs, which are currently Ys, are different from possible Xs, which are not currently anything. This is a distinction not always reflected in claims made regarding our duties with respect to future generations.⁶ Without, of course, denying that we need to bear in mind the future interests of future people, we should recognize the difference between the potential of actual beings, and the possible existence, at some future time, of future beings.

We are looking, then, at the relationship of existing entities to a (possibly counterfactual) future. Potential clearly relates to some kind of possibility. This kind would appear to be nomic or physical possibility, rather than mere logical possibility of the kind which might permit, say, the turning of rocks into people. Physical possibility is, as Edward Covey explains

[...] normally analyzed in terms of nomic regularities, or the laws of nature; an event or state of affairs is nomically possible just in case its coming about is in accordance with the laws of nature, given the initial state of affairs which actually obtains in the world.⁷

The question now arises whether, within the realm of 'nomic' possibility, a distinction should be drawn between remote and proximate possibility; that is to say, between those end states which are directly, and those which are not directly accessible from the original state. Covey discusses an argument of David Annis to the effect that physical possibility is not transitive; that it does not follow, from the fact that an unfertilized ovum is potentially a zygote, and a zygote potentially a person, that the ovum is potentially a person.⁸

Covey, while he believes there is something in this distinction, finds it difficult to pin down. For example, do we say that a teenager is a potential adult, but that a ten-year-old is, though a potential teenager, only a remotely potential adult? Is 'remoteness' of potential simply a matter of degree, like geographical remoteness, based on the continuity of the process of change, and the similarity of the individual in the initial state to the individual in the end state? Covey comments:

I am not persuaded that there are potentialities which are genuinely remote in this sense except where a possible change would entail a loss of identity. In such cases, the potential end state would be metaphysically inaccessible to the initial individual. For example, a cow is 'potentially' a collection of steaks and hamburgers, which, if eaten, will 'become' a collection of human cells and excreted waste matter, but surely by the time this transformation has taken place the cow would no longer exist. I would argue that this is the case with the obvious examples of remote potential which I have mentioned. Transitivity fails between the egg's possibility of becoming a zygote and the zygote's becoming a person because by the time that the person has developed the egg has been superseded (at some perhaps intermediate stage) by a subsequent individual. Person and egg are not identical.⁹

Before returning to Covey, we will look at another treatment of potential; that of Francis Wade.¹⁰ Wade begins by reminding us that potential refers to continuity: continuity in being, becoming or doing. Sometimes this potential will be a passive potential to submit to some outside influence, and (perhaps) to be changed into some

other thing. Water, on Wade's view, would have the passive potential to be used for making coffee. A brain would have the passive potential to be liquefied, if not recycled (to return to Brody's example). An ovum has the passive potential to be entered and activated by a sperm, and thus to be totally transformed. Active potency or tendency, on the other hand, refers to the continuity between acting and not acting - between what an individual does, and does not do, while remaining the same individual. A plant, for example, has the active tendency to grow, as does the early human organism. The sperm has the active tendency to fertilize the ovum; though here its potential ends as it forfeits its identity. A being with active potential does not simply undergo change, but itself initiates change in the appropriate environment.

Wade distinguishes further between different types of active potential: 'natural' and 'specifiable' active potential. In the case of 'specifiable' active potential, such as that of a child to learn geometry or (more questionably¹¹) that of an animal to feed, some action beyond the agent's constitution is required from the side of the agent for it to act:

Between the child now and his being a geometrician there are a series of acts of learning, which he may choose or refuse to perform, and which specify the quality of being a geometrician [...] The situation is different, however, where there is question of an active natural potentiality. Here there is not a matter of promise only but of guarantee insofar as the agent is concerned. Agents may not control their environment and, where they cannot, their actions may be restricted and even rendered ineffective by surrounding circumstances. But they are made to act and will act to their full capacity insofar as they can. Between natural potentialities and their action there is nothing needed except usable matter and this latter is from the side of the patient, not the agent.¹²

Wade goes so far as to claim that in the case of active, as opposed to passive, potential it is the 'remote' potential which counts for most, since this is what controls what the being will become:

[...] there is a recognizable difference between remote and proximate potentialities. A fetus has no proximate potentiality to see when it has no eyes and no light to see by. It has at most a remote potentiality to vision. But do not read this 'at most' as being a matter of lacking something. It has all it needs to build up in the dark eyes to see with in the light. Thus its remote potentiality is precisely the source of acquiring the proximate potentiality (functioning eyes) to see with. [...] The remote tendency is the source of the drive and the determiner of any of its specifications; and a proximate potentiality is only a modification of the ever-present and active remote, fundamental potentiality.¹³

If we accept Wade's argument, we commit ourselves to the view that the most important potential is (at least in one sense) the remote active potential which grounds all later proximate potential. It must be remembered that an active tendency must refer to a single individual; and, moreover, that active biological tendencies must be those of a biological unit. The point is missed, for example, by Michael Lockwood, who claims that

[...] to the extent that a fertilized human ovum in vitro has an active potential for developing into a human person, so do the contents of the petri dish prior to fertilization. Given that the sperm have an active potentiality, left to their own devices, to fertilize the ova, it follows that the combined system comprising sperm and ova, in a suitable medium, itself has an active potentiality for giving rise to a fertilized ovum. And if x has an active potentiality for giving rise to y, and y has an active potentiality for giving rise to z, then it must follow that x itself has an active potentiality for giving rise to z.¹⁴

Active potentialities, referring as they do to the continuity between not doing and doing, must each refer to one thing in a possible environment, not to a collection of things acting to form a new thing. Singer and Kuhse also miss this point in their answer to a paper by B.F. Scarlett, in which they compare the potential of the embryo to the collective potential of sperm and ovum considered together.¹⁵ The active potential of the early organism is the potential of one thing to initiate changes while remaining what it is. An infant, for example, has the active potential to grow to sexual maturity. It does not have the active potential to be six of its future offspring.

One can, of course, deny that there is anything particularly significant in the potential of one biological entity. Thus Michael Tooley argues that

The distinction between active potentialities that reside in systems and those that inhere in individuals appears arbitrary and without moral significance.¹⁶

On Tooley's view it would be just as sensible to treat as a moral unit a 'conception machine' for uniting particular ova with particular spermatozoa, as it would be to treat a new organism as a moral unit. In defence of his claim that it is not necessary for a person to be biologically unified, he gives the example of a split brain, the two sides of which are in different places and linked by radio control.¹⁷ It may be argued, as we have seen in previous chapters, that such a case is impossible, given our actual constitution. If we do succeed in visualizing this case, we must imagine that a unified something survives the split and link-up; a something which could not be a human person. Perhaps subconsciously we are imagining some kind of simultaneous possession by a single, 'ex-human' spirit. In contrast we are not even tempted to regard as a moral unit Tooley's conception machine or his 'system consisting of a woman together with a collection of spermatozoa'.¹⁸ To propose such 'systems' as moral units seems as bizarre as proposing a man and his vegetable garden. A plant, a person and a spermatozoon have their own separate active tendencies, which are involved both in their separate existence conditions, and in their very different status. We should, moreover, give some consideration to the common assumption that human persons have an interest in, and/or right to, their lives; i.e., their continued existence as biological units.¹⁹ This could be so whatever the rights or interests of any non-biological persons there might be, with regard to what for them would count as continued existence (to use Tooley's phrase).²⁰ After all, anyone who believes that human persons are organisms will want to maintain that our right to continued existence necessarily involves continued life.

We have focused so far on claims that potential, of some morally relevant kind, need not be ascribed to a single biological unit. What of the suggestion that the unfertilized ovum which is activated parthenogenetically (i.e., without a sperm) is

continuous with the activated ovum, whose potential it shares? Singer and Dawson, who argue for this view, concede that it might be objected that while the ovum prior to activation might still be fertilized by a sperm, the activated ovum already has a potential which is fixed, or limited, at least.²¹ Singer and Dawson compare the potential of the unfertilized ovum to be any one of a number of persons, with the potential of marble about to be carved to be, first any one of a number of statues, and eventually, only one. For is not the potential to be carved into the actual statue among those present from the beginning? And irrespective of whether some potentialities are closed as the marble begins to be carved (or the ovum is activated) is not one individual present throughout?

Yet surely the crucial difference lies in the fact that the potential of the block of marble to be carved into a statue is a continuing passive potential of that block of marble, which persists (though changing in size and shape) throughout the carving process. The unfertilized ovum also has certain passive potentialities, such as the potential to be fertilized by a sperm, as well as certain active potentialities, such as those which prepare it for sperm entry. What the unfertilized, unactivated ovum does not have is the active potential to develop as an organism. This is shown by the fact that no development takes place until what composes the ovum is rearranged in some way, either by fertilization or by some parthenogenetic agent. Since it is precisely the active potential of the activated ovum which characterizes it as the individual it is, it follows that the absence of this potential in the unactivated ovum means that the two cannot be the same individual. The active potential by virtue of which the new organism exists can only be ascribed to that organism as a whole; constituted though this organism is of parts already to hand, some of which will retain some potential of their own. And while the unactivated ovum has, as a whole, the passive potential to be turned into a zygote, this is not a kind of passive potential which is compatible with its survival.

Thus the sense in which the potential of the unfertilized ovum is 'fixed' at fertilization or activation is that this passive potential gives way to the active potential of an actual living entity. The potential which is essential to the entity's existence is, of course, established at its origin. Assuming a hardline position on the necessity of origin, if we want to refer to the active potential of a particular organism, rather than to the potential of any which may emerge, it will be necessary to refer to the time, place, and specific gamete or gametes which produce it. Even the passive potential of the unfertilized ovum to give rise to a particular individual will have to be specified along these lines.

Jim Stone, in another analysis of potential, makes a distinction between what he describes as 'weak' potential, and 'strong' or identity-preserving potential. Thus if A is a 'strongly potential' B, then rather than merely providing (some of) the matter for B and forming part of the causal chain which produces it, A will 'produce a B if A develops normally and the B so produced will be such that it was once A.'²² That identity cannot be maintained through the process of normal fertilization is undeniable, as Stone demonstrates:

[...] if the adult human being is identical to the sperm, it follows (by the indiscernibility of identicals) that the animal which is now adult once fertilized an egg. This seems plainly false, though it is true that this animal once had only a few cells and was attached to the wall of a womb. Further, the sperm could have penetrated a different egg producing another zygote. But then, if the sperm is identical to the zygote it in fact produces (as it must be if it is to be identical to the adult the zygote produces), then (by parity of reasoning) the sperm would have been identical to this other zygote too. It follows (again by the indiscernibility of identicals) that the zygote the sperm actually produces is the zygote the sperm would have produced if it had penetrated a different egg. Plainly this is false. It follows that the sperm is not identical to the zygote it produces; but then it is not identical to the adult human animal either. The same reasoning applies to the egg.²³

To the suggestion that the adult human being can be identified in the composite of egg and sperm, existing in divided form prior to conception, Stone replies that this

[...] leads to bizarre consequences. If the animal which becomes an adult human being existed before conception in a divided form, then it would have existed if it had never been conceived, for if a material thing exists at a time, it exists at that time no matter what happens at a later time. Further, it follows that this animal would have existed if the egg and sperm had found different partners. Given two sperms and two eggs we have four human animals, only two of which can survive their initial stages. We are committed to the absurdity that the planet sustains billions of additional animals, each existing in a divided form from beginning to end, its cells having nothing to do with each other ever, and each cell part of countless other animals of the same kind. Plainly the human animal does not exist before conception: my body was once a fetus but never a sperm or an egg.²⁴

For different reasons, Stone and Quinn both disagree with the claim that parthenogenesis would imply that an ovum prior to activation has 'strong' potentiality. Stone's reasons will emerge in due course. Quinn's contention is that

Parthenogenesis, should it become possible, will be best conceived as a transformation rather than a development of the ovum - the parthenogenetic agent being seen as having the power to change the ovum's essential nature, to make of it a new organism with a quite different teleology.²⁵

To this suggestion Singer and Dawson reply that both the environment of the egg and that of the embryo is essential. We cannot rely on the supposed fact that the embryo, but not the egg, needs an external trigger:

[...] Quinn's suggestion does not succeed in marking a distinction between the egg and the embryo. For the embryo also needs a specific environment if it is to develop; and if the particular environment which leads to parthenogenesis is allowed to count as an entity for the purposes of denying potential to the egg on its own outside that environment, then the particular environment which leads to development of the embryo must also be allowed to count as an entity, and we should deny potential to the embryo on its own outside that environment.

One might try to defend Quinn's analysis by claiming that the embryo has an inherent potential to develop into a person, whereas the egg needs an external trigger if it is to develop. At first glance, this appears promising; but on closer scrutiny the promise evaporates. Both the egg and the embryo have an internal genetic code which can, in the right environment, lead to the development of a human being [... In both cases, on the other hand, a great deal else does have to come from outside. In the case of the embryo in the uterus, this includes all the nutrients needed for growth; and of course in the case of the embryo in the laboratory, it also includes skilled human intervention to transfer the embryo to a uterus. In the case of the egg, skilled human intervention would also be required to induce parthenogenetic development. The difference seems to be one of degree rather than of kind.²⁶

Covey, while he takes a different position from Singer and Dawson on the moral significance of certain forms of potential, makes a similar point to theirs with regard to the rational potential of fetuses and infants. Covey argues that rationality, requiring as it does the choice of adults to nurture, is not a physically determined disposition:

The concept of an infant or fetus as essentially a future person expresses a normative judgement that the infant or fetus should become a person, since, after all, it is up to us (rather than determined by nature) whether or not it becomes a person. This dependence on human agency, in fact, is more than just a matter of whether or not we intervene in a natural state or process; it is we who supply the telos of personhood[...]. The judgement that an infant is essentially the person whom it will become might well express a moral judgement that it ought to become a person, but it cannot thereby also form a ground for that judgement, on pain of circularity.²⁷

Covey is quite prepared to entertain the possibility that a form of potential which requires human intervention (whether by education or by a surgical procedure) may give rise to moral duties. This could occur, he says, whether we found ourselves able to turn infants or chimpanzees into rational beings (supposing it to be possible to turn chimpanzees into rational beings). Covey claims that he has not found 'any metaphysical basis for an ethical distinction between the (physically) possible and the (physically) physically possible.'²⁸ However, he says,

Where a chain of as-yet-unactualized means is necessary for a possible end, there will be questions as to how we should order the priorities of our planned efforts, and the ethically allowable ordering of priorities may often negate a prima facie judgement that a certain potential ought to be actualized [...] Just as remoteness of actual relationships complicates the weighing and balancing and resolution of prima facie rights and duties, so remoteness of potential would do the same. This, however, is a very different reason for blocking remote rights of development than would be given by a true metaphysical argument for inaccessibility of remote potentiality.²⁹

The links between potential, fulfillment and moral choice will be looked at in more detail in later chapters. Here we will only note, with regard to Covey's earlier claim, that we should not be too strict in excluding from those forms of potential which in some way define the human all reference to human choice. It does seem likely that

rational activity in immature humans presupposes much help on the part of their elders. 'Feral children' who have grown up among animals do not appear to develop rational abilities by themselves. If infants are not just potential persons, but persons, the most that one can demand, in identifying them as persons, is that they have the active potential to benefit from teaching (and in fact, I will argue that even this is too much to ask of every person). The fact that human choice is needed for rational development is compatible with the prior existence of some active potential, characteristic of the species, to respond to it. Thus the fact that choice is involved in the fathering of a child does not mean that a man might not have (or acquire through surgery) a 'specifiable' active potential to father a child of the kind to which the concept 'human male' refers.

We should note that the fact that some relevant choice or intervention is (as it happens) impossible need not always preclude the existence of active potential. Thus with regard to the question raised by Singer and Dawson, the fact that the late embryo cannot be safely transferred to a woman's body does not mean that the embryo has (unlike its contemporary inside the womb) no active developmental tendencies. If there is an environment in which, without structural change, the embryo would initiate some further development, then the embryo retains the active potential for further development, whatever the practical impossibility of it reaching such an environment. Development, after all, may be externally facilitated, but is internally driven and directed. Only if human intervention is needed to change the individual's actual structure, rather than (say) its temperature or surroundings should we judge that this individual does not have the tendencies of the developing human organism.

The possibility of freezing and implanting human embryos has caused a certain amount of confusion. Kathleen Wilkes, for example, maintains that the frozen

embryo, unlike the implanted embryo, has 'no natural development at all, although it has a potential for one'.³⁰ This is, Wilkes claims, because the potential of the frozen embryo is two-staged, like that of handicapped infants who need operations. Wilkes does not believe, however, that frozen embryos have the same status as handicapped infants; for one thing because such embryos lack the 'psychological property' of suffering from a handicap for which they need to be compensated. Wilkes in fact regards being frozen as like not existing at all: this is not, she says, an 'actual', active life.³¹

Yet an entity need not be acting to have an active tendency. Even active tendencies constitutive of the organism can be indefinitely thwarted by a hostile environment. The fact that frozen embryos may survive to continue their development would apparently show that they were alive while frozen; retaining the constitution to support the potential to act, should the environment ever permit this. If it were ever possible to 'snap freeze' living adults, would their survival stand or fall on what they were doing while frozen, or on the fact that skilled intervention might be required to defrost them? With adults as with embryos, survival would rather appear to depend on the tendency to resume their activities in a certain environment.

The question now arises what are the activities, the tendencies for which are essential for the existence of any organism. Norman Ford quotes E.S. Russell on the subject:

Primary characteristics of the living organism are then the directive, creative and orderly nature of its activities in relation to maintenance, reproduction and development, to the completion of the normal lifecycle; primary conditions of existence are the preservation of structuro-functional wholeness or normality, and integral adaptation to an environment (or series of environments) in which the particular needs and requirements of the organism for the completion of its lifecycle be maintained.³²

Not every organism, of course, can reproduce itself; however every organism has the active tendency to maintain itself through various changes and pressures. As Ford explains:

An individual, granted a favourable environment and suitable nourishment, in virtue of being alive, of its own power from within itself actively strives to be self- maintaining, self-developing, and functioning for its own welfare [...] The individual's heterogeneous quantitative parts share in its life by being organized and geared to contribute to the self-maintenance, self-development, growth, repair, and well-being of the one complex organism. All its parts, cells, structures, organization and activities are subordinated to serve its common interests and goals of life, directed by its species- specific instructions encoded in its plan of life.³³

We will now turn to see when these conditions are met in the case of human reproduction, and what other tendencies define our existence as persons.

Notes

- 1 However, the suggestion that personhood may involve potential is sometimes rejected out of hand. Thus Michael Tooley does not end, but begins his enquiry into personhood by asking 'what relatively enduring, non-potential (italics mine) properties make it intrinsically wrong to destroy something, and do so independently of its intrinsic value' Michael Tooley, Abortion and Infanticide, (New York: Oxford University Press, 1983), p.95.

- 2 See, for example, H.J. McCloskey, who claims that the right to life of adults stems from their autonomous desire to live and from their 'worth and value' as 'rational, emotional, imaginative, creative being[s].' McCloskey points out that such an account 'encounters obvious difficulties in respect of infants and fetuses' and goes on to claim that infants, but not fetuses, 'possess the right to life by their potentiality to be full persons. Although the fetus is usually - but by no means always - a potential person, the greater remoteness of its potentiality, combined with our awareness that a potential x is not an x and possesses very different attributes and value from an x, inclines many not to ascribe the same right to life to the fetus, the more so as the fetus may be thought of in its early development as primarily a potential organism, although also a potential person.' (H.J. McCloskey, 'Respect for Human Moral Rights', in R.G. Frey (ed.), Utility and Rights, Oxford: Basil Blackwell, 1985, p.127.)

- 3 John T. Noonan, Jr., 'An Almost Absolute Value in History', in The Morality of Abortion, ed. J.T. Noonan, Jr. (Cambridge: Harvard University Press, 1970), pp. 56-57.

- 4 Michael Lockwood, 'Warnock versus Powell (and Harradine): When Does Potentiality Count?' Bioethics (1988), pp.191-192.

- 5 Peter Singer and Karen Dawson, 'IVF Technology and the Argument from Potential', Philosophy and Public Affairs 17 (1988), p. 90.

- 6 See, for example, Joel Feinberg, 'The Rights of Animals and Unborn Generations', in Joel Feinberg, Rights, Justice and the Bounds of Liberty (Princeton: Princeton University Press, 1980), pp.181-182:

[...] our collective posterity is just as certain to come into existence "in the normal course of events" as is any given fetus now in its mother's womb. In that sense the existence of the distant human future is no more remotely potential than that of a particular child already on its way [...] Doubts about the existence of a right to be born transfer neatly to the question of a similar right to come into existence ascribed to future generations.

- 7 Edward Covey, 'Physical Possibility and Potentiality in Ethics', American Philosophical Quarterly, 28 (1991), p. 237.

- 8 David B. Annis, 'Abortion and the Potentiality Principle', Southern Journal of Philosophy 22 (1984), pp.155-58, cit. Covey (1991), p. 238.
- 9 Covey (1991), p. 239.
- 10 Francis Wade, 'Potentiality in the Abortion Discussion', Review of Metaphysics 29 (1975)
- 11 I am not sure I understand the point Wade is making in putting the active potential of an animal to feed in the 'specifiable active' category. A child is free, as Wade says, to refuse to perform some action in connection with the learning of geometry (which is not to say that learning can always be avoided). But a cat is no more free not to pounce on a mouse than a plant is free not to absorb nutrients. In both cases, the make-up, or current makeup, of the organism guarantees a response in the appropriate environment - though of course, the plant's potential may be intrinsic to its existence, whereas the cat's may be lost before it ceases to exist.
- 12 Wade (1975), p. 244.
- 13 Ibid., p. 249.
- 14 Michael Lockwood (1988), pp. 196-197. Some writers object to the use of the term 'fertilized ovum', on the grounds that fertilization marks a radical break. Thus Schwarz argues that the zygote 'is no more the egg fertilized than he is the sperm fertilized, or modified'. (Stephen Schwarz, The Moral Question of Abortion, Chicago: Loyola University Press, 1990, p. 70.)
- 15 Helga Kuhse and Peter Singer, 'Response', Journal of Medical Ethics 10 (1984) pp. 79-81.
- 16 Tooley (1983), p. 329.
- 17 Ibid., p. 181.
- 18 Ibid., p. 183.
- 19 Thus Tooley refers to an argument put forward by Philip Devine, to the effect that the reason it is wrong to destroy organisms which are potential persons, but not to destroy systems which are potential persons, is that only organisms can have a right to life. Philip Devine, The Ethics of Homicide (Ithaca: Cornell University Press, 1978), p. 75, cit. Tooley (1983), pp. 197-198.
- 20 Tooley (1983), pp. 102-103.

- 21 Singer and Dawson (1988), p.95.
- 22 Stone (1987), p. 818.
- 23 Ibid., p. 816.
- 24 Ibid., p. 817.
- 25 Warren Quinn, 'Abortion: Identity and Loss', Philosophy and Public Affairs 13 (1984), p.28.
- 26 Singer and Dawson (1988), p.94.
- 27 Covey (1991), p. 243.
- 28 Ibid., p. 244.
- 29 Ibid., p.244.
- 30 Kathleen Wilkes, Real People: Personal Identity Without Thought Experiments (Oxford: Clarendon Press, 1988), p.69.
- 31 Thus Wilkes compares the frozen embryo with the hypothetical, unconceived human, despite the fact that, as indeed she recognizes, there is an existing subject in the case of the embryo: '[...] we are unable to say that the frozen embryo would undergo a catastrophe if not supplied with the possibility of development. Analogously it is difficult (though tempting) to say coherently that one is glad one was (conceived and) born; again, one is seeking a contrast where none can exist'. Wilkes (1988), p. 71.
- 32 E.S. Russell, The Directiveness of Organic Activities (Cambridge: Cambridge University Press, 1945), p.190, cit. Norman M. Ford, When Did I Begin (Cambridge: Cambridge University Press, 1988), p. 96.
- 33 Ford (1988), pp. 92-95.

The Embryo

When does the human organism first come into existence? The most obvious answer is, at fertilization. Can this be right, however - and when is fertilization? Unger argues that fertilization, which he equates with sperm entry, is not a moment, but a process:

the fertilization of the egg by the sperm is itself a gradual process, even if brief by ordinary temporal measures [...] we have a spectrum of a trillion cases, a spectrum of normal human conception. There is not present in any one of this spectrum's cases anything of so much metaphysical significance that is not also present in the just earlier case.¹

It may be claimed further that fertilization should be seen as a process lasting considerably longer than sperm entry. Buckle, Dawson and Singer suggest that life may begin at syngamy, with the lining up of chromosomal pairs from the male and female pronuclei, which have formed subsequent to sperm entry:

If the formation of a new genotype is the formation of a new biological individual (a criterion which is at least plausible for creatures which reproduce sexually), then syngamy is the appropriate landmark for creatures like us. But, as has been noted, other views about the beginning of the new individual - for example, the genesis of the embryo proper - are also possible.²

The authors stress that whatever is taken to be the beginning of life, this does not settle the moral question of how we ought to treat 'fertilized, or near-fertilized human cells'. They observe that

Perhaps only with the benefit of a decade or two of hindsight will we know whether in the end anything of moral significance really hangs on our determining the precise beginning of a new human life.³

The authors quote a statement from the St Vincent's Bioethics Centre, according to which fertilization is indeed the point of departure:

when the two membranes [i.e., of sperm and ovum] open to one another and the contents of the sperm are released into the ovum, the sperm loses its separate identity and the ovum gains a capacity it did not have while simply an ovum; that of developing as a human individual [...] The two cells (sperm and ovum) have become a single cell containing many interacting components which by their interaction have the capacity for organizing all the subsequent stages of human development.⁴

To this Buckle, Dawson and Singer object that, on the contrary, the sperm is not absorbed into the egg on sperm entry, since the genetic material in the head of the sperm remains intact, forming the male pronucleus:

[...] it is at least misleading, if not downright false, to say that when the membranes of egg and sperm open to each other, the sperm ceases to be identifiable. Those who do take the loss of identity of the sperm as an important criterion of when a new life begins would be better advised to look towards syngamy, rather than the moment the sperm is enveloped by the egg, as marking this moment.⁵

The authors claim that

The fact that after sperm envelopment there is only one cell is not a sufficient reason for thinking that there can no longer be two distinct entities. Siamese twins with separate brains can be thought of as two distinct entities contained in a single body; they are physically one single thing, but they are two distinct individuals nonetheless. It is not clear why we should not think of the 'male' pronucleus within the pre-syngamy cell in this way. Why should we not regard the male pronucleus as a distinct entity, albeit wholly contained within another cell?⁶

In whatever ways the pre-syngamy cell is unified, it is not, the authors claim, genetically unified.⁷ Genetically speaking, the cell is 'still in the process of becoming unified (and so cannot yet function as an individual)'.⁸

Notwithstanding the arguments just outlined, there are various objections to syngamy as a starting point for the organism. An initial problem lies in the fact that syngamy takes two hours. Is it possible to date the appearance of a new biological unit, characterized (we're assuming) by new active tendencies, from, say, the last pairing-up of chromosomes which were present throughout? Moreover, it seems quite possible to claim that, genetically speaking, the recently fertilized ovum has two genetically active parts: the male and female pronuclei. That these are parts seems likely in view of the fact that their co-ordinated action, within the one cell wall, is directing later developments which we will certainly have to ascribe to the zygote itself. The two pronuclei work within one cell for a common end, at least some aspects of which are already determined. In the case of Siamese twins, in contrast, two brains - two separate control centres - give directions many of which relate to physical parts not shared by the twins (for example, their separate faces).⁸ Within the fertilized ovum the two pronuclei engage in complementary activity specifically directed at the ultimate development of the cell in which they are located. The genetic codes which are read from each pronucleus result in the production of RNA and proteins destined to be mingled within the cell. While it is not until some time after syngamy, i.e., at the four- to eight- cell stage, that the embryo begins to express its own genome, it would appear that the single cell directs its own development while it is still controlled by the messenger RNA, which, though derived from the ovum, is activated by fertilization. The very development of the two pronuclei is a sign that the ovum is working in new ways as a unified whole.

Moreover, whether or not a new biological unit comes into being at fertilization, it will not be possible to claim that the sperm itself remains identifiable after entering the ovum. For during sperm entry the sperm is broken up, not simply enveloped by the ovum. The sperm head and tail, in entering the cytoplasm, leave the membrane

behind to be absorbed in due course, as the tail is also absorbed while the male pronucleus forms from the head. The sperm cannot be identified with its contents. Even should we want to deny that the contents of the sperm turn at once into parts of a new living entity, we must allow for the appearance of at least some new entities: the inside of the sperm, and subsequently the male pronucleus which is formed from the sperm head. But in fact not only the breakup of the sperm but the activity of the ovum give us reason to think that the sperm head, from being part of the sperm, has become part of a new living unit.

If this kind of weight is attached to the break-up of the sperm, then it seems that there may be a critical moment of discontinuity during the process of sperm entry. This will be when the contents of the sperm have passed right into the cytoplasm, and have separated entirely from the membrane of the sperm, which remains embedded in what is now the membrane of the fertilized ovum. We should follow our normal practice of singling out a new entity when some piece of the old is spatially disconnected from its sizeable - and qualitatively different - parent. The fertilized ovum is spatially more continuous with the ovum prior to fertilization. However, here also we must take account of the remarkable qualitative change which comes with fertilization.

There are, of course, arguments for placing the appearance of the organism itself considerably later than syngamy. Norman Ford, for example, accepts that a new individual is present from fertilization, which he dates from syngamy:

The unicellular zygote has many heterogeneous parts but it is not an aggregate of distinct parts as though each part existed separately resulting in the formation of an aggregate or artificial unity. Notwithstanding dependence on the mother for survival, it shows all the signs of a single living individual since its activities are all directed from within in an orderly fashion for its self-maintenance. [...] it harnesses the energies of atoms and molecules in determinate structures for its own life-processes, self-development, and well being [...]⁹

Nonetheless, Ford argues on various grounds that we do not have here an entity continuous with the later human person. For one thing, the zygote splits into two, which one person cannot survive. And can we claim that a group of cells dividing within the zona pellucida is a single organism? And can we claim that the group of cells is continuous with the body of the 14-day embryo, if sites have not yet been marked out for parts of this body, and if cells are still 'totipotent'; i.e., can each be used to produce the whole foetus, together with the accessory tissues, such as the placenta?

Ford describes the zona pellucida as a 'temporary external protector'¹⁰, while admitting that it 'gives the appearance of a single organism and unity to 8 distinct individual cells together.'¹¹ Ford's view of the zona pellucida is, however, open to question. It must be remembered that the zona pellucida began as part of the unfertilized ovum, subsequently forming part of the zygote. If it is similarly taken to constitute part of the multi-cell embryo, after first cell cleavage, then the cohesiveness of the mass of cells within the zona pellucida can be taken to signify the presence of a single organism. For example, the 8-cell embryo would appear to meet Eli Hirsch's criteria for existence as a unit of some kind: spatial connectedness and dynamic cohesiveness, 'in the sense that its parts tend to remain together under various pressures'.¹²

With regard to the unified functioning of the early embryo, Ford suggests that the cells only gradually come to work together in harmony, as what he describes as their internal 'clock' mechanisms become synchronized with each other.¹³ Yet Ford himself refers to the opinion of embryologists who, he tells us

[...] suggest that the timing of early differentiation at the blastocyst stage is governed by some 'clock' mechanism inbuilt into the DNA of the chromosomes of each cell of the embryo. It seems to be set from the time of fertilization, with each cell's 'clock' running

in dependence on, and in co-ordination with, what is happening in its surrounding cells.¹⁴

If this is so, Germain Grisez is surely right in objecting that

[...] The cells and tissues do not need to have their 'clock' mechanisms synchronized and triggered, because they always are working together harmoniously, which is to be expected if they are, not a mass of distinct individuals, but integral parts of one developing individual.¹⁵

However, Ford has other arguments on which he lays more weight. What of his claim that the 'embryo proper' must have a human shape, a front and a back, a left and a right, to maintain the necessary bodily continuity with the later organism? For the early cells are 'totipotent' and their progeny could form any part of the 'embryo proper', the accessory tissues (the umbilical cord, the placenta) or even another embryo, as in the case of chimeras:

The unity of the individual human organism would imply a characteristic minimal specific heterogeneity of quantitative parts arranged to provide determinate sites for the co-ordinated development of structures, tissues and organs along a primordial body axis [...] We are not dealing with arbitrary requirements: they are determined by the concept of person we all employ. This concept, in its turn, is based on our direct experience and ordinary understanding of individual human persons, complemented by reflection on this original experience in the light of metaphysical principles.¹⁶

Earlier Ford had asked in relation to chimeras:

If several cells from different sheep or mouse embryos can combine to produce a single lamb or mouse, could it not very well be that several cells derived from the same fertilized ovum could likewise form a single sheep or mouse in the natural situation?¹⁷

Yet surely what a cell might form if separated from its neighbours and joined to a foreign body does not affect what it is forming now. The potential of a cell to be separated off by a scientist and combined with cells from a different embryo can hardly be described as an active potential of the cell during its period as part of the original embryo. After separation, as we shall see, the cell may acquire some striking

new potential of its own. Yet before separation - like any cell subsequently shed - it is simply part of the original organism.

What of the objection that the parts of the embryo would have to be spatiotemporally continuous with those of the later organism: back with back, spine with spine, and so on? How can the early embryo be continuous with the late embryo, when we do not know which parts of it are going to form the 'embryo proper' and which the accessory tissues; which end is front and which is back? Can it be true that we are 'in there somewhere' if, for example, we cannot tell from where the spine is going to appear, within the mass of dividing cells?

Alan Holland ¹⁸ looks at this question at some length, in attempting to determine when we originate as human beings (which he takes to be what we essentially are). Holland points out that we are prepared to countenance significant variations both of bulk and of form under certain biological covering concepts; that in biology we do not require that the immature organism have the same structure as the mature: that lepidopterans, for example, have the same structure when they are caterpillars as they have when they are butterflies. It is true that before cell differentiation we cannot trace ourselves, or parts of ourselves, in any part of the organism.

However, can we not trace ourselves in the whole of it? And as to the claim that some cell progeny are destined, not simply to be shed, but to become a structure which forms no part of the future individual, Holland argues that this description

[...] does seem to beg the question [...] with respect to the fetal human: we have not yet agreed to count only the miniaturised adult form, shorn of placenta, umbilical cord, etc. as the future individual.¹⁹

Holland's point seems reasonable enough. After all, the placenta and umbilical cord are used to nourish the foetus; we have no reason not to regard them as parts of the early organism, discarded at birth, as the milk teeth are discarded later. The accessory tissues are not invariably of the same genetic type as the 'embryo proper' - but then, as we have seen, the embryo proper can also be composed of different genetic contributions. And while it is true that the placenta may be shared by twins, this is also true of various other organs, which may be shared by Siamese twins.²⁰

Cell differentiation, like the formation of the 'primitive streak' and, later, the brain, is produced through the active tendencies of an entity which appears, at least, to be continuous with the later organism. There is, in fact, every sign of continuity of organization; perhaps even, as some would argue, of a continuing, active human 'life-principle', or soul. Ford himself, a Roman Catholic theologian, explicitly dates our appearance from the appearance of the soul, claiming further that 'one either is or is not a human being. There can be no place for a 'no man's land' in this case.'²¹

Ford seems, however, to feel some tension between this belief and the belief that changes of structure and organization gradually occur before the human individual is present, or fully present. Thus he claims elsewhere that

There is no evidence to suggest that all of a sudden, as though by magic, individual cells become a human individual [...] A determinate, actual human individual gradually emerges and develops from what is potentially human and indeterminate in relation to its ultimate fate.²²

Ford needs, in fact, an explanation of early development, since in the case of later development he has in mind an extremely close relationship between body and 'life-principle':

The dual principles of spiritual soul (form) and matter, or more simply mind and body, are introduced to explain adequately the unity and functioning of the human person,

understood as a primitive and underived datum of our experience. They do not pre-exist the human person, as though they come together to form the human being. They begin to exist as constitutive co-principles of a person only when the ontological individual human being is actually present. It is difficult to see how this could be so before the actual formation of a truly multicellular individual living body. Its specific heterogeneous quantitative parts would be needed for the activities required for orderly self-development, self-maintenance, self-differentiation and growth. It would also be necessary that its life-cycle proceed within the same continuing ontological individual.²³

Ford would appear to be saying that the human individual, if it exists at all, must exist by virtue of its soul. The living body cannot be thought of in isolation from the soul, which makes it alive, and which comes into being simultaneously with what it animates. Ford's problem is in showing that no individual is present during the period of nonetheless well- integrated development between the zygote and the individual he believes is somehow gradually formed around the stage of the primitive streak.

Different problems are faced by those who hold that, from fertilization to 'hominization', there exists a series of individuals, each with its own separate soul. One who holds this view is Joseph Donceel,²⁴ who attempts to revive the theory of Aquinas, derived from that of Aristotle, according to which the matter present in early development has two successive souls or 'forms' before reaching the point at which it is sufficiently structured to receive a personal soul.

Donceel accepts that the soul is, in the words of the Council of Vienne, the 'form' of the body; but claims that the form exists in the body like the shape in a statue,²⁵ and that therefore the embryonic body cannot have a personal soul. Not until the brain and sense organs develop can a personal soul come into existence.²⁶ For Donceel the personal soul is thus the conclusion of, rather than the principle behind, early human development. Donceel rejects the suggestion that the personal soul might itself form the body of the embryo, since he claims that this is incompatible with the

psychophysical unity of human persons. For if one entity could be said to produce another, would they not be separate entities?²⁷

Donceel is concerned to allow for the unity of the human person. However, one could argue that unity would be better preserved on the assumption that soul and body come into existence together, rather than either the soul pre-existing and creating the body, or the soul appearing in a body which has already developed, having passed in and out of two transitory 'forms'. In fact we have no reason at all to believe in three substantial changes, on three separate occasions; any more than we have reason to believe in any external addition to the organism, other than nutrition. Everything we know about the zygote suggests that it already has both the information it needs for further development, and the active tendency to use it. For unlike Aristotle and Aquinas, we know that the embryo's development is directed not, as they thought, by the active power of the semen, but rather by its own.

We should remember that not only animals, but even plants, were thought by Aristotle to have souls²⁸ - as indeed they do have their own distinctive principles of organization, if this is what Aristotle meant. Whether or not we want to speak of souls in the case of humans, it is certainly true that humans have active tendencies to self-organization and self-development in virtue of which we are the kind of entity we are. The nature of the zygote depends on its active tendencies; and in particular, since the zygote is the organism at its earliest stage, on the kind of body it has the active tendency to form.

Here, however, a difficulty arises in relation to identical twinning. For if the zygote's constitution is defined by its potential to produce some later type of body, then what are we to say if the zygote (or later embryo) has the potential to produce not one but two of this type of body? Can it be identified with both? Twinning may occur so

early that any potential, for example, to differentiate cells along a certain pattern will be carried out by two and not by one. We have no reason to identify the original individual with one twin rather than its sibling. Are we, then, to suppose that this individual dies in giving rise to two descendants?

Both Ford and Stone maintain that not merely twinning, but normal first cleavage involves a loss of identity, so that the zygote is not continuous even with the two-cell embryo. For, as Stone argues, one cannot become two; no individual can survive division into duplicates.²⁹ Neither, Stone believes, can we say that the zygote is merely constituted by the cell which fissions, so that the cell splits, but not the zygote.³⁰ For if a statue is constituted by a lump of bronze, then if the lump of bronze fissions, so does the statue.

What Stone does not consider is that in the case of normal cleavage we could say that in reality it is neither the zygote itself which divides, nor the material which constitutes the zygote. Rather, a part of the zygote splits within a different part - the zona pellucida - producing two new parts which divide in their turn, working together as constituents of one organism. In contrast in the case of twinning the resulting cells are separated, so that each begins to develop along its own path, continuity having been broken. If this were not the case, it would not be possible to distinguish between normal cleavage and the appearance of twins at the two-cell stage. In such a case of twinning the original individual passes out of existence, giving rise at the time of separation of the resulting cells to genetically identical offspring. Ford appears to be claiming at one point that all zygotes have the 'natural active potential'³¹ to twin. However, this cannot be the case; if it were, all zygotes would twin unless prevented from doing so. The fact that all zygotes could be made to twin by researchers does not show they have the active tendency to twin, any more than a normal cell marked out to be cloned has the active tendency to develop

on its own. In the same way worms can be cut in half, thus giving rise to new worms, without this demonstrating that they have the active potential to divide (or that they are not individuals before they do).

The cause of identical, or monozygotic twinning is, Ford says, unknown. Some research indicates that the propensity to identical twinning may be inherited through the maternal line.³² However, this would not, according to Ford, account for the majority of cases of monozygotic twinning. Moreover, it would seem that even the inherited propensity to twin would not necessarily mean that the embryo was predetermined to twin, genetically or in some other way.³³ Rather, it could simply mean that the structure of some embryos is weak and therefore liable to fission.

If we do assume that the embryo which twins did not begin life with the active tendency to do so, will it always be the case that twinning results from the destruction of the original embryo? This will depend on whether the embryo divides symmetrically or asymmetrically. If one cell is removed from a multi-cell embryo, as in embryo biopsy, it would appear that a new individual has been generated without sufficient disruption to entail the death of the old. In the same way, if a cell of mine could be taken and cloned, this would not mean that in losing this part of my body I ceased to exist, nor that prior to cloning I was more than one person. In the case of symmetrical twinning, however, there is radical disruption of the organism, such that neither resulting individual can be spatiotemporally continuous with that original organism. Now the case is more like one in which I am split into all my component cells, each one of which is then cloned.³⁴

Yet there remain some puzzling questions with regard to what would count as an active inherent tendency to twin.³⁵ For we can imagine an embryo with some acquired or inherited weakness such that in some environments it would certainly

twin, and in others it would not. The nature of the embryo could not be made to depend on which environment it was in at the time. It would seem that a mere inherent susceptibility to external pressures is not enough to constitute an active tendency, though if there is no environment in which twinning could be prevented, the individual would certainly lack the critical tendency to produce a single line of development. If, on the other hand, twinning in response to a certain environment were part of some internal programme, then we would have to postulate the existence not of a real human organism or person, but of (to use Quinn's suggested term³⁶) a 'proto-organism'. The proto-organism we could think of as lasting until such time as the programme was carried out, or alternatively, until such time as the programme, having been thwarted, could no longer be carried out, at which point the proto-organism would acquire the tendencies of the normal organism or person. It is, however, awkward to postulate the existence of such an entity, which would have various things in common with the normal organism; moreover we need not imagine that any such entity exists, unless it is found that some apparent embryos do in fact have the active tendency to twin.

Agneta Sutton has suggested that if the fertilized ovum has the active tendency to twin, then it consists in reality of two individuals, temporarily occupying the same space.³⁷ This is not, however, an easy position to defend - for can two of the same kind of being occupy one place simultaneously? To assume that something like this could happen in our own case would commit us to a distinctly dualistic view of persons. For since the same piece of space-time would be 'occupied' by each person, the two would originally be physically indistinguishable. And if the proposal is that the two be distinguished by their separate souls or life-principles, the question arises how one body could be structured according to two separate life-principles. We would have to imagine two life-principles which somehow work in unison,³⁸ before moving on to animate what are certainly two new bodies (one body cannot split

symmetrically and survive). Nor can the resulting twins be thought to share one initial history, since this would be a violation of the transitivity of identity.³⁹ The twins, not identical with each other, cannot both be identical with something else. Moreover, if the split could in fact be prevented until a stage in development at which it was no longer possible, would this mean that one of the persons had been destroyed, or would we still have to say that there were two persons present from fertilization, never to be physically distinguishable?

One is reminded of 'perduring' theorists such as Noonan who, having accepted the possibility of fission, claim that two persons - two space-time worms - are present both before the split, and after.⁴⁰ Just one of the challenges of holding such a position is that of describing the extent to which the interests present before the split can be said to be fulfilled after the split has taken place, in view of the different fates which the two persons might undergo. If one person will have a happy, and the other an unhappy life, then two conflicting prognoses must somehow co-exist with respect to an early person-stage involving the original body. In the same way, if twins co-exist before they divide, the prognosis of what would certainly appear to be one embryo would have to be somehow divided to take into consideration the future lives of both twins.

I am arguing that embryos who twin do not come into being with the active tendency to do so. If, however, what appeared to be an embryo were found to have this tendency after some intervention, the implications of this would depend on what active tendency, to produce what level of development, is acquired for the presence of the human person or organism. We will be looking further at this below. In the meantime we should note that the phenomenon of identical twinning indicates that it is not, as is sometimes claimed, the genome itself which is the unique, essential constituent of the person. Nor can this even be said of an instance

of a genome; say, that of one of a pair of identical twins. For it seems highly counterintuitive that any alteration to the genome, however limited in scope, would bring about the destruction of the original individual, and the generation of a new one. Even a major alteration to the genome would not necessarily entail the destruction of the original individual, if there continued a living being who, however abnormal, retained certain human tendencies. For example, it can happen that an ovum is fertilized by more than one sperm, so that the embryo includes, at least for a time, extra genetic material. This material may be subsequently rejected, so that the organism returns to a number of chromosomes closer to the normal 46. However, 'triploid' embryos with 69 chromosomes may survive to birth and beyond,⁴¹ although they will be seriously handicapped. On the entry of the first sperm, certain tendencies are established with regard to later development, and these are not necessarily lost on the entry of the second sperm, though development may be abnormal in many ways.

What would be a genetic aberration of a kind incompatible with the existence of a human person? It would seem that we can distinguish between human offspring, and what are no more than human products. Examples of the latter are hydatiforms moles, formed with no maternal genetic contribution and producing only placental tissue, and also teratomas, which may grow like cancers using cells of a live or dead embryo, in which case they produce a jumble of disorganized tissues (teeth, skin, and so on.)⁴² Both these entities are genetically unique and, in a sense, alive and self-directing; neither, however, is human offspring. Why is this?

Some would say that the defining characteristic they lack is rational potential; that is, in the context of early development, the tendency to develop a body with rational abilities. Grisez argues for this position,⁴³ maintaining that the embryonic person must have the epigenetic primordia for a body capable of a rational act. Grisez points

out that later abilities stem from what is normally present from fertilization onwards, and that if one precursor of rationality, such as the foetal or infant brain, can suffice for the presence of a person in the absence of current rationality, then there seems no reason why an earlier precursor in the embryo should not also be sufficient. Grisez does, however, maintain that a human person must have, or must have had at some stage, rational tendencies.

It does seem true that most, if not all, early humans have the active tendency to develop rational abilities, on being nurtured by older humans. It is also clear that this tendency stems in some way from their constitution. In the words of Iglesias:

What things can do and how they appear is a manifestation of what they are [...] The inseparability of what a thing is and its capacities is particularly manifested in its organic continuity, in its being always the same organism. The development of personal abilities (self-awareness, choice, creativity) does not come about independently of our organic development. There are no bases in reality to affirm that those capacities are 'something added' (by miracle?) at any particular stage [...] ⁴⁴

Certainly, there seems no reason to separate the acquisition of mental abilities from the original tendencies of the healthy organism. And in a sense a thing cannot be separated from its tendencies, in that these cannot exist without their subject. However, many subjects can, of course, exist without some tendencies typical of the kind of thing they are. There are tendencies which the human organism could lose, or not have had, without in any way forfeiting its existence.

It is possible, though not certain, that not all members of the human species have rational tendencies, at any stage of their lives. As yet it is not clear what causes anencephaly; the condition due to which infants are born with a working brainstem but with a badly disorganised upper brain. Recent research indicates that rather than anencephaly resulting, as was previously believed, from the failure of the embryo to form a neural tube, it may rather result from the disruption of the neural tube some

time after its formation.⁴⁵ However, it may still be the case that anencephalics never had the epigenetic primordia for a body with rational abilities, whether or not they once had the primordia for a greater degree of organisation in the upper brain than they have by the time they are born.⁴⁶ If this is so, should we regard anencephalics as mere human products, like hydatiform moles? Should we conclude that the anencephalic, although it has a living body organized in many ways along familiar lines, is nevertheless not a human person?

To return for a moment to the hydatiform mole, it is clear that such an entity can be no more a person than a laboratory culture of skin cells can be a person. One indication of this is that it seems odd to say that a hydatiform mole, any more than a culture of skin cells, ought to develop a working brain. A hydatiform mole, as a normal hydatiform mole, could not be expected to develop any such thing. In contrast, the anencephalic baby, though sharing its features with other such babies, is not a normal, or healthy baby. We have some idea of what the anencephalic is missing; we are able to say what tendencies ought to be there, and are not. Moreover, we are able to say what tendencies ought to be there by referring to tendencies which are there. A severely damaged embryo, foetus or infant may retain the active tendency to develop and maintain many recognizably human features.

Stone argues that to speak of normal development for an organism is to presuppose that there is, for that organism, 'a developmental path determined primarily by the biological natures of members of the kind to which the entity belongs, a path which leads to their adult stage'.⁴⁷ Of course, the actual path of an anencephalic infant, assuming such an infant will in fact die in infancy, does not, in the most straightforward sense, lead to the adult stage - although this is the stage appropriate to the kind to which the infant belongs. In what sense could we say, nonetheless, that

the anencephalic's constitution is sufficient to be 'the primary determinant' of a developmental path which leads to the adult stage?

It is reasonable to suppose that there are potentialities in the anencephalic baby, such as the potential to develop an adult body, which are simply blocked by some internal weakness (for example, a weakness in the cardiovascular and respiratory systems⁴⁸). The adult stage is not only appropriate to the kind to which the infant belongs, but would have been achieved by active elements in the infant, were it not for other elements which are blocking such activity. Should it ever be possible to prolong the lives of anencephalic infants to adulthood, we will say that this blocked potential has been freed. We should distinguish between the active tendency of all humans to maintain themselves and adapt to their surroundings, the blocked tendency of the abnormal human to progress to adulthood, and the missing tendency to develop rationality, which may always have been missing in, for example, anencephalics.

To be alive, a human must have the active tendency to maintain and adjust its activities for its own welfare and, in the case of the early human, to progress some distance along a human developmental path. The active tendency to differentiate its cells would appear at least a necessary condition for early human existence. Stone would appear to be right in claiming that

If a zygote's genetic code is so damaged that it would have to be substantially created before it could be the primary determinant of a developmental path, the zygote is, as Aristotle might have put it, a zygote in name alone, and talk of its normal or abnormal development is idle.⁴⁹

If, on the other hand, cells will be differentiated to form, e.g. head, trunk, etc., arranged as parts of one body, then the fertilized ovum would appear to be a human, at the earliest point of its developmental path. Difficult questions arise, however, in the case of genetic manipulation.⁵⁰ Transgenic animals can be produced which

involve human genes. This is, in itself, unproblematic; a mouse with a human growth hormone is a (somewhat abnormal) mouse. In the same way, a human who was given the gene of a mouse would be an abnormal human. But what if many mouse genes were inserted in the human genome? Or what if a chimera were produced using human and animal cells? Researchers have already produced what may be human-hamster hybrids, although these do not live for long.⁵¹ How much foreign input would be too much foreign input, at or after the creation of an embryo, so that a human organism would either cease to exist, or would not have existed in the first place?

It is not difficult to describe even an abnormal embryo as a real human organism if it retains the active tendency to differentiate its cells according to a human pattern. Such an embryo would be directing its own maintenance and development along the same lines as other early humans. What, however, do we say in the case of rival genetic input? What if an entity could be produced which had the active tendency to produce a head, brain and trunk resembling those of a hamster, although the limbs would resemble those of a human? Whatever the tendencies of such a hybrid entity, we could not, surely, say that it had the tendencies of a human. Rather, its genome would be so radically different that we could not properly refer to either human or hamster tendencies as being either present or missing. The entity would have to be viewed as a new type of organism - with a 'normal development' specific to itself.

In sorting out these somewhat hypothetical cases, we will have to decide what part of the mature human body would necessarily indicate the presence of a human. The obvious candidate is, of course, the human brain, which is necessary both for life itself as the mature 'organizer', and for rationality in the case of humans who have reached the age at which they can begin to develop rational abilities. A human brain, even a damaged human brain, found to be present in an unusually furry neonate,

would surely give us good reason to treat him or her with respect, whatever his or her other distinguishing features. Similarly, the tendency to form a human brain could be seen as an indication that it was a human organism which was replacing and differentiating its cells, albeit under some distorting influence. If instead there was present the active tendency to produce a non-human brain, this could be taken as indicating that the organism was not human. If there were present active tendencies to produce some later body, but neither an animal nor a human active tendency to produce a brain, the question would arise whether there might be nonetheless a blocked tendency to produce some kind of brain.⁵² If experimentation were able to free the tendency to produce either a non-human-, or a human-type brain, then this would count as proof that the entity was either, say, a severely mutilated hamster, a non- human hybrid, or a severely mutilated human. We are assuming that the organism cannot have two 'life-principles'; that no non-human organism could have, together with its active tendencies, the 'freeable' capacity to produce a human brain. Thus if the capacity to produce a human brain were blocked, for example by the lack of a hormone produced elsewhere in the embryo, the freeable capacity, and hence the human person, would nonetheless survive. It should be noted that the primordium for the brainstem would be sufficient - just as a brainstem is sufficient in the case of the anencephalic for survival as a living, self-organizing body.

The active tendency to produce the mature organized body, and at least the blocked tendency to produce the human brain are, I would argue, essential for the existence of an early human person. Why should the brain be so important? It is because a body which has a human brain, or which has the active or blocked tendency to produce a human brain, is clearly the kind of body which ought to develop rational abilities, at the appropriate stage of its life. A being with a human brain, or the tendency to produce one, is a rational kind of being.

In the next chapter we will be looking further at rational kinds of being, and at some reasons for thinking that the class of human persons includes both normal and abnormal members of our kind. We will end this chapter with a final assessment of the human embryo, and of the plausibility of its claim to be a person.

It does seem as if our reluctance to admit the claim of the embryo may be grounded above all in the embryo's wildly unfamiliar appearance.⁵³ We have seen the implausibilities of various other suggestions for our time of origin as persons; the irrelevance both of our actual thoughts and experiences, and of the immediate capacity for these which is developed, at some negotiable time, by a being already in existence. Yet we are left with a candidate for personhood who bears little outward resemblance to ourselves as we are now. Can it be true that an entity which seems so unlike us belongs to the same category as the best of adult exemplars; is, in fact, that very adult exemplar at the beginning of his life?

Embryos are, in fact, quite unfamiliar to most of us. It is not, however, familiarity which should decide the question.⁵⁴ For arguments from the 'inhuman' appearance of the embryo must assume the point at issue: that this is not what human persons do in fact look like at an early stage of their lives.⁵⁵ We do, no doubt, begin the search for our personal origin with a picture of the paradigmatic human person; someone with eyes, face, limbs, and so on; someone of our own age and appearance. The search did not, however, concern these features in themselves, which were not assumed to be essential, but rather, what might be found to underlie them and others, maintaining continuous existence. There was every possibility that an imagined substance sortal, 'being-with-arms-legs-thoughts- etc.', was in reality a phase sortal all along, while the real substance sortal was more hospitable than we thought. Wiggins rightly criticizes the

[...] conceptual conservatism into which no philosophical inquiry into substance should find itself forced, viz. the supposition that one can tell a priori, for any given sortal, e.g. the sortal tadpole or pupa, whether or not it is a substance-sortal or merely a phased sortal. Room must be found for the empirical and surprising discovery that there is something which is first a tadpole and then a frog [...]⁵⁶

We are to remember that natural kinds are defined not by outward appearance, but by underlying structures and activities:

[...] The determination of a natural kind stands or falls with the existence of lawlike principles, known or unknown, that will collect together its actual extension around an arbitrary good representative of the extension. For the name to stand for a natural kind, everything depends on whether there is some nomological grounding for what it is to be one of the kind. If there is, and if the predicate is worthy to survive as a natural kind term, then the holding of the relevant principles is nothing less than constitutive of its exemplification by its instances. To be something of that kind is to exemplify the distinctive mode of activity that they determine.⁵⁷

Later again, Wiggins renews his insistence that the essences of natural kinds are indispensable for individuation:

Essences of natural things, as we have them here, are not fancified vacuities parading in the shadow of familiar things as the ultimate explanation of everything that happens in the world. They are natures whose possession by their owners is the very precondition of their owners being divided from the rest of the reality as anything at all.⁵⁸

If Wiggins is right, then biological features of the kind we have examined in this chapter may well be what is essential to our existence as persons, however far removed such features may be from the mental picture of persons with which we began.

Notes

- 1 Peter Unger, Identity, Consciousness and Value (New York and Oxford: Oxford University Press, 1990), p. 198.
- 2 Stephen Buckle, Karen Dawson and Peter Singer, 'The Syngamy Debate - When Precisely Does a Human Life Begin?', Law, Medicine and Health Care 17 (1989), p.180.
- 3 Ibid., p.180
- 4 'Identifying the Origin of a Human Life', St. Vincent's Bioethics Newsletter (1987), pp. 4-6, cit. Buckle, Dawson and Singer (1989), p. 176.
- 5 Buckle, Dawson and Singer (1989), p.177.
- 6 Ibid., p. 177.
- 7 Ibid., p. 178.
- 8 In the same way, when Siamese twins come into existence at the latest stage possible for twinning, their appearance is marked by the appearance of not one but two primitive streaks.
- 9 Norman M. Ford, When did I begin? (Cambridge: Cambridge University Press, 1988), p. 108.
- 10 Ibid., p.146.
- 11 Ibid., p.137.
- 12 Eli Hirsch, The Concept of Identity (Oxford and New York: Oxford University Press, 1982), p. 237.
- 13 Ford (1988), p. 175.
- 14 Ibid., p.155.
- 15 Germain Grisez, 'A Human Embryo is a Person: Outlining the Argument', forthcoming

- 16 Ford (1988), p. 162.
- 17 Ibid., pp. 145-146.
- 18 Alan Holland, 'A Fortnight of My Life is Missing: a discussion of the status of the human "pre-embryo"', Journal of Applied Philosophy (1990).
- 19 Ibid., p. 32. Whatever conclusion we come to about the accessory tissues, we must, Holland argues, acknowledge some form of spatiotemporal continuity through early development. The early or 'pre-' embryo 'will at all times contain cells which are ancestors of those cells which are eventually differentiated to form the later fetus. Indeed, the further back one traces this ancestry the higher the proportion they form of the total 'pre-embryo' population, until one reaches 100%, possibly at the 16-cell stage and certainly at the initial single-cell stage.' (p.31.)
- 20 Grisez, forthcoming.
- 21 Ford (1988), p. 78.
- 22 Ibid., pp.161-162.
- 23 Ibid., p. 130.
- 24 Joseph F. Donceel, 'Immediate Animation and Delayed Hominization', Theological Studies 31 (1970).
- 25 Ibid., p.81.
- 26 Ibid., p. 101.
- 27 Ibid., p. 94.
- 28 Aristotle, De Anima, 414 b.
- 29 Jim Stone, 'Why Potentiality Matters', Canadian Journal of Philosophy 17 (1987), p. 819 n. 9. Stone concludes that the zygote lacks 'strong', identity-preserving potential, adding that 'the conclusion that no cell the nature of which is to divide into duplicates can have strong potentiality entails that parthenogenesis, even if it became common, could not establish the strong potentiality of the unfertilized (or the self-fertilized) egg to become an adult human being.'

- 30 Stone (1987), p. 825 n. 22.
- 31 Ford (1988), pp. 119-120.
- 32 Ibid., p. 135.
- 33 As appears to be the case with the nine-banded armadillo, which invariably produces four primitive streaks from a single blastocyst. See Anne McLaren, 'The Embryo', in C.R. Austin and R.V. Short (eds.), Reproduction in Mammals, Vol.11, Embryonic and Fetal Development (Cambridge: Cambridge University Press, 1972), p.20.
- 34 Similarly, a chimera formed from two human embryos would signify either the incorporation of one individual into the survivor, or perhaps, if the disruption to both individuals were sufficiently radical, the end of both individuals and the beginning of a new one.
- 35 This is a slightly different sense of 'active tendency' from that seen in the previous chapter. Splitting is not an action which an individual completes while remaining the same individual. An organism, or 'proto-organism', which did have the active tendency to twin would survive the beginning, but not the end of the process.
- 36 See Warren Quinn, 'Abortion: Identity and Loss', Philosophy and Public Affairs 13 (1984), p. 27 n. 5: 'If [monozygotic] twinning is genetically determined, then the pretwin zygote may have to be regarded as some special kind of proto-organism that ceases to exist in its own right as the twinning process takes place. If twinning is contingently produced by environmental factors, the pretwin zygote can be regarded as a human organism that might have gone on to develop through a normal human cycle but, as a matter of fact, ceases to exist in the twinning process. Since twinning is a striking discontinuity of normal development there may be nothing objectionably ad hoc in these qualifications.'
- 37 Agneta Sutton, Prenatal Diagnosis: Confronting the Ethical Issues (London: The Linacre Centre, 1990), pp.109-110.
- 38 Of course, a certain amount of co-operative activity is found in Siamese twins, who nonetheless can be physically distinguished by their separate 'control centres'.
- 39 Holland (1990), p. 33.
- 40 Harold Noonan, Personal Identity (London: Routledge, 1989), p.253: 'In particular, then, a necessary and sufficient condition of it being definitely true that I am happy after the fission is that each of the tied continuers is happy after the fission.'

- 41 Buckle, Dawson and Singer (1989), p. 179.
- 42 Ford (1988), pp.82-84.
- 43 Grisez, forthcoming.
- 44 Teresa Iglesias, 'In vitro fertilization: the major issues', Journal of Medical Ethics (1984), p. 23.
- 45 See Peter McCullagh, 'Organ Harvest: The Use of Anencephalic Infants in Transplantation', Quadrant 279 (1991) p. 34. McCullagh also refers to the conclusion reached by a recent U.S. Medical Task Force on Anencephaly to the effect that anencephalic neonates may be sentient, and moreover, that many activities of normal neonates should be ascribed to the brain stem and not to the cerebral hemispheres.
- 46 Grisez (forthcoming) claims that if the anencephalic infant previously possessed the epigenetic primordia for a body capable of a rational act, that infant remains a person. My theory dispenses with this requirement, and focuses on the current tendencies of the individual, and those of others of its kind.
- 47 Stone (1987), pp.818-819. Stone emphasizes that 'this account of the relation between nature, good and identity does not appeal to teleology. The adult stage is not construed as a final cause or goal, for the sake of which the organism develops.' p.821 n. 12.
- 48 McCullagh (1991), p. 38.
- 49 Stone (1987), p. 819.
- 50 Karen Dawson, 'Fertilisation and Moral Status: a scientific perspective', Journal of Medical Ethics 13 (1987), pp.174-175.
- 51 If the entities produced lack the tendency to differentiate their cells, they will not be true hybrid organisms, but rather hybrid products.
- 52 The 'blocked' tendency to do something, like the active tendency, should refer to activity which at least commences in the same individual - something which would not be the case if it were a new pair of individuals who were subsequently able to develop human brains. The development of the brain would take place when twinning was no longer possible, so that if a fertilized ovum had the active tendency to twin, it could not be a human organism or person.

- ⁵³ See John Kleinig, 'Persons, Lines, and Shadows', Ethics 100 (October 1989), p.113: 'Our inability to identify with a zygote [...] may show a lack of imagination as much as any morally significant difference. Were fertilization to be registered by a transformation of the conceptus into a being having a minute human-like morphe, we would find this differentiation much more difficult to make.'
- ⁵⁴ Stephen Schwarz makes the point that the unfamiliar appearance of the embryo is a characteristic not of the embryo but of the adult observer, and moreover that the extent to which the embryo looks unfamiliar can be expected to change as techniques for viewing the embryo become more widespread and better developed. (Stephen Schwarz, The Moral Question of Abortion, Chicago: Loyola University Press, 1990, p. 50.)
- ⁵⁵ Anthony Fisher, IVF: The Critical Issues (Melbourne: Collins Dove, 1989), p. 138.
- ⁵⁶ David Wiggins, Sameness and Substance (Oxford: Basil Blackwell, 1980), p. 64 n.7.
- ⁵⁷ *Ibid.*, p.80.
- ⁵⁸ *Ibid.*, pp. 132-133.

Interests

We began our search for the origin of persons by assuming we were persons ourselves, at least at the time of making the inquiry. We are now in a position to see ourselves in a wider context. As animals, we form a reproductive community; we are members of one class of being. What is this class of being?

We have seen that human provenance is not sufficient to establish membership of humankind. It is not quite true to say, as does Holland, that:

[...]It remains a contingent fact that an individual member of a species has the characteristics which it has. Individuals are human not by virtue of their intrinsic properties but by virtue of their extrinsic relations with each other. The criterion of origin rules.¹

We can agree with Holland that provenance is necessary; that humans are characterized by their historical links both with other humans and with pre-human primates. That is, not only do individual humans necessarily have the ancestors they do, but any human we imagine must have a similar ancestry, just as any dog must have an

ancestry involving dogs and, ultimately, wolves. A dog lookalike with a totally different ancestry, or a synthetic, but animated "dog" (if there could be such a thing) would be a different kind of thing from the dogs we know. However, in identifying an animal of a certain kind we must look not only at provenance, but at constitution. Persons do not only give rise to other persons; they also give rise to teratomas. Not every product of reproductive cells is remotely plausible as human offspring.

There seems little doubt that rationality must be in some way central to the concept of either a human or a non-human class of persons. On discovering that extraterrestrials engage in rational behaviour, the ethical space-traveller will change his plans for research. As Rosalind Hursthouse points out², our views on non-rational Martians will presumably correspond with our views on non-rational humans. If we believe, for example, that we have a strong obligation to enable and/or permit the non-rational to attain what we see as their rational fulfillment, then it seems that the biological group we refer to in this moral context is that of rational-type humans (or Martians or whatever).

How do we single out the group for which rationality is "normal"? The more bizarre suggestions can be quickly rejected. However many primates or biped mammals are rational, it is not normal for primates or biped mammals to be rational, only for a certain type

of primate or biped mammal.³ Again, we cannot treat infants, the insane or the mentally handicapped, as members of their own separate biological class. In the case of infants, this would clearly be flying in the face of overwhelming evidence for continuous human development. Nor can I declare my mental (or physical) illness to be normal on the grounds that I comprise a class of my own.

Wiggins suggests that a person is an animal

[...]the physical make up of whose species constitutes the species' typical members thinking intelligent beings, with reason and reflection, and typically enables them to consider themselves as themselves the same thinking things, in different times and places'

The weak spot is, of course, the word "typically", which would seem to relate to the number of species members who are in fact rational. Noting this, Carter⁵ imagines a situation in which there is a sharp decline in the number of rational humans. Carter gives the example of a space-traveller returning to Earth after 40 years according to the clocks on his spaceship, only to find that due to some catastrophe the entire human race is now incapable of thought. Homo sapiens has ceased to be sapiens, apart from the spaceman himself. Is he no longer a person - though he hasn't changed? Again, if human persons are descended from non-rational primates, would the latter belong to our class of personal subjects, if by

some chance they were closely enough related to be able, in principle, to interbreed with humans?

Tooley⁶ also raises these questions, arguing that a biological classification such as species membership cannot be morally relevant in itself. Just as it would not be appropriate to treat 'featherless bipeds' as a moral class of being, it would not be appropriate to treat as a moral class the human reproductive community. The fact that species members living after a mutation were able to interbreed with those living before is not, Tooley would argue, relevant to the task of identifying a moral community. Moreover, if we focus on what is typical for the species, will we not be passing over individual achievements, in favour of statistics for the group? Is it fair that a retarded member of a largely rational species should be treated differently from a retarded member of a largely irrational species? Or if my species changes from being largely rational to being largely irrational, should this affect my status for the worse?

Tooley and Carter would appear to be right in rejecting the emphasis on 'typical' rationality, if this is taken as referring merely to how many species members have actual rational abilities at any one time. However, Tooley and Carter are, I would argue, wrong in failing to recognize the importance of membership of the species, or of some biological class, in determining, not what is statistically likely behaviour, but what is normal, or healthy behaviour.

But surely 'normal' must refer to the current rationality of other members of the relevant class? No - for what if all members were simultaneously brain-damaged? The fact that the entire human species had been affected would not make it normal to be incapable of thought. Just as the presence of an active human tendency does not depend on the likelihood of the tendency's being carried out, so the fact that the

tendency is present or missing in one individual does not depend on the number of others by whom it is carried out.

We cannot, surely, do without the concepts of 'healthy' and 'maimed', 'functional' and 'dysfunctional'. There is no way of using these concepts unless we are able to specify the class within which they apply. It is no loss for a brain-damaged, or even a normal parrot to be unable to study nuclear physics - although it is a loss for a brain-damaged human.⁷ For this to have been a loss to the brain-damaged parrot, he would have had to have been so different from all the other parrots that he would count as belonging to a new class of being, even if this class consisted only of himself. His constitution would have to have been somehow fundamentally different from that of apparently similar parrots, so that if after brain-damage he acted like the others, we would have to say that he, unlike them, was a brain-damaged (parrot) person.

But then it seems that numbers must be let back into the picture. For will it not be necessary to say that most members of a rational group must have, at least at some time, rational tendencies? Unless we do say this, there would appear to be no sense in which we could speak of, for example, 'missing' or 'faulty' genes. If an active tendency to function in a certain way is present in most members of a species, the species member who lacks this tendency must be described as maimed or abnormal, at least in this respect. In contrast an animal cannot be classed as maimed for not having a tendency which none of its class ever had.

But can we not imagine a situation in which only half or less of the species had rational tendencies - and this due not to some unprecedented catastrophe, but to a well-established genetic lottery? What would be then be normal for the group? How big a group are we looking at - stretching, backwards and forwards, how many

thousands of years? Are we interested merely in what is normal among those animals which remain able to interbreed? For surely what is normal for related communities will change over thousands of years?

These are difficult questions to answer, if we are looking for a sharp divide between the rational group and related, non-rational groups. If we accept that some humans at the present time can be 'rational-type', though missing rational tendencies, was this also true of humans when they first emerged as a rational class of being? If so, we will have to distinguish between maimed members of the rational type and healthy members of the non-rational type. Those animals who are structured according to some distinctive life principle will either have, or rarely and significantly lack, rational tendencies, among their other characteristic tendencies. What unites the genetically normal and the genetically abnormal is a common life-principle, in virtue of which they are structured a certain way, normally including, but sometimes missing, those parts essential for rationality. If we go back far enough in evolutionary history, we will find beings of a radically different kind from ourselves, who, though progenitors of the new, rational kind, cannot be said to operate according to the same life-principle, or belong to the same genetic kind in any morally relevant sense. This conceivably might be so whether or not they were still in principle capable of interbreeding with rational humans, who would, if this were possible, belong to a genetic group originally smaller than a species. If we think it likely that the rational group emerged in response to the plan of a divine creator, will tend to expect that the new community will propagate its own kind; that the quantum leap forwards is not going to be reversed in any future descendants of rational humans.

What if we neither are theists, nor are prepared to countenance talk of 'rational-type' life-principles? In this case we may be able to imagine a situation in which only half

or less of a species have (sufficiently?) rational tendencies - a situation which would make it impossible to describe those without such tendencies as maimed or abnormal. However, in the situation we have at present, there is little doubt what is normal for the contemporary reproductive community: what, for example, severely mentally handicapped members lack, and what treatment would be in their interest, should it ever be possible to provide it. On questions such as these we can rule with a confidence absent from our speculations about the remote past or future.⁸

With some idea of what we mean by humankind, we can ask what counts as benefit and harm for beings like ourselves. There are characteristic tendencies of our kind of being, tendencies the absence of which leads us to call some humans less healthy or flourishing than others. It is good for humans, not only to develop rationality, but to develop healthy hearts and functioning immune systems. Such benefits are relevant in some way to our actions, so that we supply by surgery tendencies which are blocked or missing, and work against any tendencies we think should not be there.

Yet if all we mean by 'good for human persons' is to refer to what makes possible behaviour characteristic of our kind - or even, perhaps, what makes possible characteristic functions - can this be the 'good' we refer to in moral statements? After all, plants and insects also have characteristic functions, which can be promoted or frustrated. Can we base reasons for action on 'mere biological' interests of persons, of the kind shared by other living things?

For example, it may be conceded that the human embryo is the same organism as the adult, and even that it can undergo 'biological' harms and benefits, according as its biological functions are promoted or frustrated. It may still be denied that the embryo (and/or foetus and infant) has morally significant, and in particular 'personal' interests, of the kind which may give rise to, for example, personal rights.

Michael Tooley, on this subject, agrees that

A plant [...] may be spoken of as having an interest in getting enough water⁹

However, he adds immediately:

[...] something that was capable of interests only in this attenuated sense could not be a right holder. To be a subject of rights one needs to be capable of having interests in the sense that involves the capacity for having desires.

In an earlier passage,¹⁰ Tooley formulates the 'particular interest principle', according to which it is 'a conceptual truth that an entity cannot have a particular right unless it is at least capable of having some interest which is furthered by its having right R.' With regard to the necessary connection between interests and desires, Tooley goes so far as to suggest that neither rationality, nor self-consciousness would suffice for personhood in the absence of desires.¹¹

Tooley offers no argument for his emphasis on desires, which naturally has its critics.¹² For why should those not already convinced of Tooley's position accept that it is the capacity for desires which has such significance? Tooley's statement, as several critics have argued, would appear to beg a question central to his account of personal status. Before going further into this question, however, we should look at Tooley's account in more detail.

The capacity for desires and hence for interests 'in the morally relevant sense' is introduced by Tooley to deal with some obvious problems with linking particular interests with particular desires. For it is easy to think of examples in which both interests and rights persist, not only in the absence of a desire for the relevant good, but in the presence of some contrary desire. Tooley gives the example of women who have been conditioned so that they do not want to participate in intellectually

challenging activities,¹³ and of a person who, having contracted a disease, is temporarily in a 'desireless state', while retaining an interest in, for example, nutrition.¹⁴ Thus Tooley concedes that particular interests and rights of persons need not be matched by particular desires. Some desires must, however, be had at other times; that is, not just at the present time, which Tooley believes will indicate only the presence of a 'momentary subject of interests'.¹⁵

Here indeed is the crunch: at which other times? For of course sentience, and presumably simple desires, begin some time before birth. If past desires are essential, might we not consider the past desires of the mature foetus and infant? Or might we not rely wholly on possible future desires: those related to the interest in question, or others? If the entity which has desires at other times is the organism, then any normal embryo is a subject of non-momentary interests.

Tooley does mention the possibility of considering future specific desires, but rejects it as 'the resulting account of rights will be very complex' and 'it may not be very clear when one has arrived at a complete analysis'.¹⁶ With regard to the embryo Tooley simply states that it has no capacity for desire and hence, no interests at all.¹⁷ By means of further stipulations Tooley avoids the inclusion of foetuses and infants in the relevant class. Not only are they not capable, lacking the relevant concepts, of desiring to persist as a 'continuing self or mental substance', but the fact that they lack such concepts means that their lives are insufficiently unified for the possibility of non-momentary interests. No individual who at no time has such a self-concept can have any desires at different times.¹⁸ Yet as Michael Wreen points out, though persons, on Tooley's own definition of them, need to have this concept to exist at all, there is nothing to suggest that other individuals - dogs, for example - do not exist while having desires at various times.¹⁹ Even if we insist that an individual must have had desires in the past to have any 'non-momentary' interests now, there will

still be no reason to exclude the mature foetus and infant from an interest in continued existence; that is, unless they are excluded from the beginning of the argument intended to prove their lack of 'personal' interests. If the only subjects of desire seriously considered are those whose mental lives are unified in the way which Tooley favours, then of course it will appear that to exist as the right kind of subject one needs to be unified in precisely that way. As Tooley puts it:

What is needed, apparently, is that the continued existence of the individual will make possible the satisfaction of some desires existing at other times. But not just any desires existing at other times will do [...] it is not even sufficient that they be desires associated with the same physical organism. It is crucial that they be desires that belong to the same subject of consciousness.²⁰

Coherence of personality and causal connectedness, though essential, still do not suffice for the existence of a person:

My own inclination is to say that such continuity, though necessary, is not sufficient. If desires are to be interrelated in a morally significant way, there must also be recognition of the continuity by the enduring mental substance in question.²¹

This can happen through thoughts about the past or (possibly) thoughts about the future. How do desires come to form a morally significant group? Tooley gives the example of an adult, Mary, in whose interests it was that the baby who grew up to be the adult was not destroyed.²² Was it also, he asks, in the interests of the baby that she not be destroyed?

The baby, Tooley imagines, is capable of simple desires. Some things are therefore in her interest - is survival to adulthood? Yes, says Tooley, but only if Mary the baby is the same subject of interests as Mary the adult. If the adult can clearly remember the experiences she had as a baby, then they would appear to be the same subject of interests. 'On the other hand, suppose that not only does Mary, at a much later time, not remember any of the baby's experiences, but the experiences in question are not

psychologically linked, either by memory or in any other way, to mental states enjoyed by the human organism in question at any later time.²³ In this case, Tooley thinks, it 'cannot be correct to transfer, from Mary to the baby, Mary's interest in the baby's not being destroyed.'

It is unclear whether Tooley, in giving this example, is sufficiently careful to keep apart the belonging-of-thoughts- to-a-unified-subject, and the recognition of this by the subject herself. Is it only to future desires that the 'thought about self' will now be appropriately related, or is this thought (as Tooley seems rather to be saying) appropriately related also to the past? The question that arises is whether some infant desire, which gives rise to subsequent memories and thoughts about the past, is thus retrospectively made part of a morally significant group. It would indeed seem odd if two rather disconnected desires, previously not part of one subject of non-momentary interests, could be made so by subsequent thoughts about them both. (Indeed, it would then be too late to further any interest which was damaged before the two were unified). Or alternatively, suppose a baby's desire A gives rise to a later desire B, in the absence of any clear concept of a 'continuing self or mental substance', only to be followed by the advent of this concept in memory C of desire A. Did A and B (certainly in some way causally connected) belong to the same self previously or not?

If Tooley is prepared to settle for unification through very simple memories, in the absence of any coherent self-concept, would he count any vague memory of A implicit in B? If he would, would he accept that desires A and B form part of a morally significant group of interests? If he would, then Mary the two-month old baby is at least related appropriately to Mary the three-month old baby. Whether or not the two- month-old Mary has an interest in living to be an adult, she has an interest in living to be a three-month-old baby, who in turn has an interest in living

to be a four-month-old baby, and so on. In this way, successive Marys (or Mary the organism) would seem to possess the interests of a continuing subject of experiences. Nor need this cautious procedure begin at birth. For can we see the mature foetus as only a subject of momentary interests - even if we are adamant about the importance of memory?²⁴

Questions regarding the connection between interests and psychological continuity bear on the question sometimes raised of why death is bad. Death, unlike non-conception, involves loss to an individual, whose enjoyment of certain goods is curtailed. (To be the subject of an interest, one must exist at some time, so that we cannot seriously speak of it being 'in the interest' of counterfactual people to be conceived.) It may be claimed that death involves real loss to a person only if it interrupts connected experience - for experiences are all that matter in human lives. The goods we hope for are benefits to us only in so far as we are psychologically connected with the people who enjoy them. As Jeff McMahan puts it:

If the infant dies, there is a sense in which its losses are less than those that an adult human being normally suffers through death, since the future it loses would have been less closely connected to it in the ways that provide grounds for egoistic concern - or perhaps, in this case, grounds for concern for its sake. Of course, the infant's death may mean the loss of a glorious future life. But the only loss that matters significantly where the infant - qua infant - is concerned is the loss of those parts of its future life with which it would have been psychologically connected.²⁵

McMahan claims that we cannot simply sum up the goods lost by death, but that these goods must be

weighted in such a way that the loss through death of some future good will count for more the closer the psychological connections would have been between the person as she was at the time of her death and as she would have been at the time at which she would have received or experienced the good.²⁶

Psychological reductionism has been discussed in an earlier chapter. What of the view, which need not be accompanied by psychological reductionism, that the principal harm of death lies in the interruption of consciousness, the impact on our already formulated plans, desires, and so on? Is it not worse for a adult to die than a newborn baby, and if so can we say that the two are equally subjects of 'personal' interests?

It is certainly true that the interruption of worthwhile projects (writing a book, say, or raising a family) may be a serious harm to an adult person, a harm of which he may well be aware before it occurs. However, we cannot say that all adults are equally harmed by death in this way, or that this is the only way in which death is harmful. An adult person is surely no more or less a person - no more or less a member of our moral and biological class - simply because he enjoys more or fewer of the benefits available to members of this class. Again, can we say that the baby's loss is morally insignificant - despite the fact that she is not even able to begin any projects? While the baby cannot be distressed, as an adult can, by the thought of death, she will nonetheless miss out on any whole projects she might have begun. If the ability to carry out worthwhile projects is a serious loss to the adult, might it not also be a serious loss to the infant? And if, in fact, we can save the infant, so that she will die some decades later, should we not go to some lengths to do so? ²⁷

Harm to older persons can be painful and/or frightening, and interrupt the execution of cherished plans. Yet not all harm, as we shall see, is like this. Moreover, there are cherished plans which give rise to reasons, not to aid their execution but to thwart them at all costs. In contrast, the very young human cannot be hurt or frightened, but can be deprived of much life in response to no threat of her own. Perhaps there are some harms which, though neither frightening nor painful, can nonetheless constitute serious wrongs.

On the subject of plans and desires concerning the future, Quinn makes the point that while these may make possible certain kinds of loss, they may be in various ways misguided:

The future that one now dead had planned and hoped for might, after all, have turned out to be very unsatisfying to him, and good might have come to him from changes in his life that he never imagined. And even if the hoped for future would have proved to be as good as expected, it seems odd to explain the badness of its loss by reference to the hope rather than to the good things the future would have contained.²⁸

There is, Quinn says, a kind of loss - loss of the goods of life - which remains when all mental connections with a possible future are absent.²⁹ Don Marquis takes a similar line, maintaining that the goods lost through death need not have been already experienced. While stressing that 'The change in my biological state does not by itself make killing me wrong', Marquis goes on to claim that the effect of 'the loss of my biological life is the loss to me of all those activities, projects, experiences, and enjoyments which would otherwise have constituted my future personal life.'³⁰ In the same way, when the foetus dies there is a loss of the very 'activities, projects, experiences, and enjoyments' which adults value so highly. Killing a foetus may therefore be wrong, Marquis argues, for the same reason as killing an adult, or older child.³¹

In fact it seems undeniable that harms and wrongs need not always be connected with actual desires and experiences. Philip Montague,³² focusing on wrongs rather than harms, argues that wrongs need have no perceptible impact on the person wronged. For if we are robbed, say, or sterilized without our knowledge, even if we die soon after, or the damage is promptly reversed, our rights are infringed at the time of the action, at whatever age this takes place. A wrongful attack on an infant or foetus need not therefore be attached, in so far as it constitutes the infringement of a right, solely to the more mature person who may eventually feel the effects of the

infringement. If adult rights can be infringed at one time irrespective of what happens later, killing can surely infringe the rights of an infant (or a foetus) despite the fact that he or she will not live to regret the infringement.

To this it might be replied that wrongs must be based on possible, if not on actual future experiences. The reason why it is wrong to harm an adult, whether or not the adult dies or the damage is reversed, is that one is thereby diminishing, as far as one can tell, the chance that the adult will enjoy a certain experience. This reason is also, of course, available in the case of the infant, as indeed in the case of the embryo and foetus. To harm an infant or foetus in certain ways is to lower the possibility, perhaps to zero, that the individual concerned will experience some benefit.

As we shall see, Montague does not, in fact, require that rights refer even to possible experiences. Montague's emphasis is not on interests (which he finds hard to pin down) but on rights, and specifically, on 'rights dominion'. Montague claims that we have the right, even as infants, not to have decisions made by other people which are ours alone to make, if and when we can. Thus our infant rights not to be sterilized, killed, and so on, are in this respect the same as our rights as adults. It is for the infant to make certain decisions, if and when he or she can. Montague's approach contrasts with that of H.J. McCloskey, who also lays emphasis on the choices of the individual killed, but who claims that even fatal choices can be made for infants on the assumption that they would make such 'rational' choices themselves if they had the capacity to choose.³³

Also at variance with Montague is Loren Lomasky, who argues that harm to the non-autonomous refers to the eventual impact on the project-and-claim pursuing adult:

Common morality ascribes rights to the child because it recognizes rights in the adult it will become and to which it is numerically identical. To damage an infant is to damage

the project pursuer that it will be. Indeed, what counts as damage or benefit for an infant is determined by what will likely further or diminish its eventual success in living as a project pursuer.³⁴

We should, however, take seriously Montague's demonstration of the problems involved in connecting what appear to be present wrongs to future states which may or may not eventuate, whether because the individual escapes the effects of the wrong, or because the individual dies or is killed. It is true that a wrong may relate to the likelihood (or the likelihood as far as the agent can tell) that some future state will eventuate. But the claim that some action reduces the possibility, or the possibility as far as one can tell, of the older person's enjoying some benefit would seem to take us back to the individual at the present time, whom we wrong if we make less likely the enjoyment of that benefit. The older person who does escape the effects of an earlier harm has indeed been wronged - but in childhood, not in adulthood.

It is interesting to look in this context at Feinberg's approach to the question of prenatal rights. Feinberg, while recognizing the continuity of some kind of subject, regards any social rights we may ascribe to the unborn as mere 'placeholders'³⁵ for the eventual rights of the 'full-fledged interested being'. He claims that

The clearest cases of rights that a fetus does have [...] are rights to the present protection of future interests, on the assumption that he will be born. To say he has such a right to is to say that must be held for his arrival.³⁶

Yet surely interests, and rights referring to interests, do not need to be 'placeholders' for future rights and interests if there is one subject present throughout. Harm to the foetus is not, like damage to an unfertilized ovum, a harm or wrong which can be ascribed only to some later subject. Harm to a limb of the foetus, for example, is like

harm to a limb of the infant; a harm which may affect the subject at every stage of his life, and which will certainly affect the subject at the stage at which it is inflicted.

The discussion of interests is complicated by variations in the way in which the word 'interest' can be used. We must, for example, distinguish between 'having an interest' and 'taking an interest'; one need not imply the other at any stage. Interests we have refer to harms and benefits (for example, we have an interest in nutrition), whereas interests we take, while they may refer also to harms and benefits, refer primarily to our actual desires. If we confine our attention to the interests we have, there remains an ambiguity with regard to how we refer to our relation to some possible long-term benefit. Of a person who, unknown to him, is going to need surgery, we can say either that he has an interest in good health insurance, or that he will have an interest in good health insurance. Interests in the former sense do not have dates, except, of course, that they must refer to a time before the time at which the benefit can be enjoyed. Whichever way we speak of interests, we can agree that reasons may be present now for us to act to secure some long-term benefit. The central issue here is the relationship of a person to some possible benefit in the future of that person.

But in fact we do very often refer to long-term interests when we speak of our present relationship to future benefits. I have an interest (whether or not I am now interested) in a happy and healthy retirement. I had, as a child, an interest in being booked into high-school, and immunized against various diseases. Long before I acknowledge something to be in my interest, much less take an interest in it myself, there will exist a relationship between me, some benefit for me, and some action of mine or others which may secure it.

Most importantly, it would seem that there are interests which do not refer to experiences, whether actual or possible. Both our interests and (as Montague argues) our rights may be affected without this affecting, or being able to affect, our experience at any time. Most of us can be spied on, and slandered behind our backs, and some of us even have a life's work to be destroyed when we die. With regard to desires and choices, although it can sometimes be argued that, in such and such a situation, we would desire, or choose, that something be the case, to rest too much on this argument is not to go to the heart of the question of either interests, or rights. As Jenny Teichman puts it:

[...] it is possible to be harmed in ways one did not know existed, and possible to be harmed without understanding the cause, and possible to be harmed without realizing one has been. And violation of a right (unlike physical pain) is exactly the kind of harm which one can suffer while remaining ignorant in all or any of these ways [...] Tooley's idea that the concept of right is founded, not on benefit and harm, but on desire, substitutes a notion which in this context is secondary and derivative for one that is primary and fundamental.³⁷

And indeed, we tend to desire things we believe to be good in some way. Just as our lives are not made ours by the fact that we want to live (for do we not rather want to live because our lives are ours?) so we do not really believe that the goods of life are good merely because we happen to desire them. We believe on the contrary that there are desires and desires - and that their proper influence depends very much on their object. Sadistic, masochistic, or simply illogical desires are not among those we think we ought to favour - whatever our respect for the autonomy of those who do in fact favour such desires. The object of desire may be important, but the desire itself, insufficient to form an interest, may not even be necessary.

Yet it may be insisted that, whether or not a necessary connection exists between desires and interests, a morally significant interest must refer to the kind of good in which the human organism cannot always participate. 'Mere biological' benefits,

such as life, are often regarded as having only instrumental value. Thus James Griffin describes well being as 'the level to which basic needs are met so long as they retain importance'.³⁸ What are important, on Griffin's view, are 'informed desires' and the autonomous pursuit of the objects of these, from which he derives many human rights:

Taking one's own course through life is what makes one's existence human. We value our humanity, so we value what makes life human, over and above what makes it happy[...] this personhood consideration [...] goes some way towards making the notion of a human right more determinate. It generates most of the conventional list of civil rights: a right to life, to bodily integrity, to some voice in political decision [...] It also provides a right not to be tortured, because torture aims at destroying ones capacity to decide and to stick to the decision [...]³⁹

Nagel, on the subject of the value of our lives, observes that:

[...] the value of life and its contents does not attach to mere organic survival: almost everyone would be indifferent (other things equal) between immediate death and immediate coma followed by death twenty years later without reawakening.⁴⁰

Many writers claim that no bodily harm, however extensive, would have moral significance in itself unless some good were damaged relating in some way to the victim's experience. This view is widespread, and has a certain appeal. Responses to it will be looked at in the following chapter.

Notes

- ¹ Alan Holland, 'A Fortnight of My Life is Missing: a discussion of the status of the human 'pre-embryo'', Journal of Applied Philosophy 7 (1990), p.28.
- ² Rosalind Hursthouse, Beginning Lives (Oxford: Basil Blackwell, 1987), p.104.
- ³ See Michael Tooley, Abortion and Infanticide (New York: Oxford University Press, 1983), p. 70.
- ⁴ David Wiggins, Sameness and Substance (Oxford: Basil Blackwell, 1980), p. 158.
- ⁵ W.R. Carter, 'Do Zygotes Become People?', Mind 91 (1982), p.88.
- ⁶ Tooley (1983), p.70.
- ⁷ What an entity is missing is important for the Aristotelian Kathleen Wilkes, (Real People, New York: Oxford University Press, 1988) who advances the suggestion that the senile and the 'savagely retarded' (p. 21), being in a state of deprivation, of 'Aristotelian loss', should be compensated for this by extra concern on the part of the rest of us - though interestingly she thinks that to see death as preferable is, in some cases, an appropriate manifestation of concern (pp. 67-68, p. 96).
- ⁸ Thus Jenny Teichman ('The Definition of Person', Philosophy 60 (1985), p. 181) claims that: 'it is perfectly possible to accept a definition of 'person' as 'an individual being of a rational nature' without necessarily accepting the philosophical and theological underpinning which historically went with definitions of that sort; and it is reasonable to interpret this definition - by analogy with that of terms like 'mammal' - in such a way that, in order to count as a person an individual creature need not itself be actually rational, as long as it belongs to a rational kind. There is good reason to adopt this interpretation, because it is this interpretation which fits the way the word 'person' is used in ordinary life and in the law'.
- ⁹ Tooley (1983), p. 117.
- ¹⁰ Ibid., p. 90.

- ¹¹ Ibid., p. 146.
- ¹² See, e.g. William Cooney, 'The Fallacy of all Person-denying Arguments for Abortion', Journal of Applied Philosophy (1991), pp.162-163, and Phillip Montague, 'Infant Rights and the Morality of Infanticide', Nous 23 (1989), p.66.
- ¹³ Tooley (1983), p. 111.
- ¹⁴ Ibid., p.117.
- ¹⁵ Ibid., p. 117.
- ¹⁶ Ibid., p.110.
- ¹⁷ Ibid., pp. 118-119.
- ¹⁸ Ibid., p.120.
- ¹⁹ Michael Wreen, 'Whatever Happened to Baby Jane?', Nous 23 (1989), p. 695.
- ²⁰ Tooley (1983), p. 120.
- ²¹ Ibid., p. 132.
- ²² Ibid., p. 119.
- ²³ Ibid., pp. 119-120.
- ²⁴ Tooley does in fact see 'being a subject of a single non- momentary interest' as a property which may exist in degrees: '[...] if one's capacity for recall is limited to the immediate past, one will be unable, after a short period of time, to view past undertakings as things that one has done oneself. The sense that one has of oneself as a continuing entity will be very different from that possessed by normal adult human beings. And it seems to me that these differences may very well be relevant when it is a matter of the extent to which desires existing at different times are to be viewed as belonging to a single non-momentary interest.' (p. 301.)
- ²⁵ Jeff McMahan, 'Death and the Value of Life', Ethics 99 (1988), p. 56.

- 26 Ibid., pp. 56-57. McMahan notes the oddity of saying that, for example, moral growth is less in one's interest the greater the changes envisaged. He suggests that the decrease in psychological connectedness may be outweighed by the value of the benefit in prospect, even if the future self will not be strongly connected with the present self by desire, intention, etc. The trouble with this answer is that we may not feel there is anything to count against our interest in moral growth. We may, on the contrary, hope to benefit in direct relation to the distance travelled from our 'former selves'.
- 27 McMahan claims that there is a paradox here, since if we were comparing deaths for two different people we would want to say that the death of a 35-year-old adult was worse than the death of a baby; that the 35-year-old should be saved in preference to a child who we know will live another 35 years (pp.58-61). In this case we are trying to decide who shall have the extra decades - the baby or the adult. In the original case, our only option was to win more life for the infant - which of course we should do, other things being equal. In any case, such deliberations are, I would argue, out of place with regard to the second case presented by McMahan, which is that of a woman who is going to die if a craniotomy is not performed on her 9-month-old-foetus. I will argue in the next two chapters that more is involved in direct killing than the simple loss of life.
- 28 Warren Quinn, 'Abortion: Identity and Loss', Philosophy and Public Affairs 13 (1984), p. 43.
- 29 Ibid., p. 48.
- 30 Don Marquis, 'Why Abortion is Immoral', The Journal of Philosophy 86 (1989), p. 189.
- 31 Ibid., p. 192.
- 32 Montague (1989), pp. 63-81.
- 33 H.J. McCloskey, 'The Right to Life', Mind 84 (1975), p. 418.
- 34 Loren E. Lomasky, Persons, Rights and the Moral Community (Oxford: Oxford University Press, 1987), p. 160. Lomasky does, however, place in the moral community some non-project-pursuers, such as infants and the profoundly mentally handicapped, who, he believes, gain their place through their social relationships with project-pursuers.
- 35 Joel Feinberg, 'The Rights of Animals and Unborn Generations', in Joel Feinberg, Rights, Justice and the Bounds of Liberty (Princeton: Princeton University Press, 1980), p. 178.
- 36 Joel Feinberg, 'Is There a Right to be Born?', in Joel Feinberg (1980), p. 216.

³⁷ Teichman (1985), p.183.

³⁸ James Griffin, Well Being: its Meaning, Measurement and Moral Importance (Oxford: Clarendon Press, 1986), p. 52.

³⁹ Ibid., p. 225.

⁴⁰ Thomas Nagel in his paper 'Death', in Thomas Nagel, Mortal Questions (Cambridge: Cambridge University Press, 1979), p.2.

Respect for Persons

Human persons are, I have argued, 'rational-type' organisms, functioning in accordance with laws which are specific to our kind, and refer to our physical environment. Life is therefore intrinsic to persons, as living entities: a condition of our existence, and hence of our well-being. The question now arises whether life is merely a condition of our well-being, without significance in itself. Is life, despite being necessary and sufficient for our existence, no good for us, in any morally significant sense, apart from the mental activity it makes possible?

Perhaps we could believe that life, though intrinsic to our existence, is insufficient to ground any morally significant interests - that it is not even an aspect of our well-being. Such a view could, however, have the effect of placing human lives lower on the moral scale than the lives of other organisms; that is, if we assume, as seems reasonable, that non-human lives have a value in themselves which can provide us with reason for action. We need a reason of some kind for killing even an insect; and is there no presumption against killing a 'rational-type' human, alive but incapable of thought?

Moreover, the claim that our lives have only instrumental value leads us in the direction of the view considered earlier, according to which there are times (say, after the seemingly permanent loss of some psychological potential) in which we exist, but without personal rights, or interests of any moral significance.¹ Most of us

feel that our personal status is something 'inalienable'; hence the attempts, on the part of those reluctant to trace the moral subject back as far as fertilization, to postulate the appearance and disappearance of some entity distinct from the living human organism.

With regard to the moral importance of survival in itself, the natural law theorist Germain Grisez, together with Finnis, Boyle, George, and others, argue that life is intrinsic not only to our existence, but to our full-being or welfare. Life is, these writers maintain, one among several 'basic goods' of human persons.²

Natural law theories cover a wide variety of positions. The theory we will look at in detail is the 'new classical' natural law theory propounded by the writers mentioned above. These writers go to some lengths to emphasize where their theory differs from most other natural law theories, claiming that it derives not from those developed in recent centuries but from those of Aristotle, and later, Aquinas. According to the 'new classical' theory, moral principles appear in relation to certain 'basic goods' of human persons. Unlike Rawls' 'primary goods', the basic goods of the new classical theorists are good in themselves, not mere preconditions for the enjoyment of other goods. The goodness of basic human goods is underived from other things, and for this reason is not susceptible of direct demonstration.

Basic goods are not derived from our natural potential. No conclusions can be drawn from our natural potential as such to what it is good for us to do, or to have. A non-evaluative account of our natural potential would include the potential to act on such feelings as spite and self-hatred. Basic goods are underived; there is therefore no question of deriving an 'ought' from an 'is'. For example, with regard to the question we saw raised by Tooley, we could not derive the moral status of a biological group from a totally non-evaluative description of that group.

If the basic human goods neither require, nor admit of derivation from anything else, how can their existence be defended? The answer of the new classical theorists relies on their understanding of practical, as opposed to theoretical reasoning. Following Aristotle, as they interpret him, they identify a mode of reasoning which is concerned with human activity and human fulfillment.³ In the course of reflecting on activities in which we are engaged, we realize that there are certain things we pursue, for ourselves or others, not for the sake of other things, but for their own sake; things which give point to our practical activities and make them intelligible; things it is good for us, and those like us, to have, to do and to be. These are 'pre-moral' goods, not moral conclusions, but from them arise both general principles and specific moral norms. Life is among the basic goods, irreducible to the others, and can therefore provide reasons, sometimes conclusive reasons, for acting:

One often chooses to do something to protect a human life, one's own or another's, without thinking about any good beyond life itself. Of course, life is important for all the other human goods, and so one can have ulterior reasons to protect life. But what is characteristic of a basic good is that it can provide the ultimate reason for a choice which bears upon an instantiation of it, not that it always does provide it [...]⁴

To the objection that people do not desire merely to live (as in a vegetative state) but to live well, the new classical theorists reply that while the basic goods can provide, just in themselves, reasons for human action, in no basic good considered in abstraction can one find 'all the richness and so all the rational ground for action present in integral human fulfillment'.⁵ To the objection that life itself cannot be of intrinsic value to persons, shared as it is by plants and lower animals, they reply that life is as diverse as what lives, and that

to be partly perfected by activities generically common to plants and animals is not to be partly a plant [...] To belong to one species precludes belonging to any other, and any individual of a certain species is through and through of that kind.⁶

Moreover, it is claimed that capacities such as rationality and free choice are involved in the most perfect instantiation of the good of life:

We do not use the word 'life' in two different senses, but in a single sense to refer to a reality which, like other basic human goods, can be instantiated more or less perfectly. When instantiated most perfectly, human life includes vital functions such as speech, deliberation, and free choice; then it is most obviously proper to the person. But even an impoverished instantiation of the good of life remains specifically human and proper to the person whose life it is.⁷

Life (and its maintenance and transmission) is not the only good of persons. Other basic goods proposed by the new classical theorists are the following: 'play', knowledge and aesthetic experience, 'friendship' or harmony between oneself and others, peace of mind or harmony between one's feelings and one's judgements and choices, and peace of conscience or harmony between one's judgements and one's choices. Finally, they say, there is the basic good of 'religion': harmony between oneself and some 'more-than-human source of meaning and value'.⁸

It is argued that knowledge cannot be coherently denied to be a basic human good; that is, assuming the denial is made for its own sake, not for some ulterior motive. For the very denial, intended as a serious contribution to a debate, would constitute an acknowledgement of the good of knowledge. Nor does it seem at all reasonable to doubt the pre-moral value of friendship or harmony with others. While the new classical theorists deny that the basic goods, being underived, can be inferred from other things, they do regard broadly similar behaviour in different cultures, motivated both by reason and by pre-rational urges, as evidence for the existence of the basic human goods, which are both served by reason and bound up with common desires.⁹

In response to the recognition by the new classical theorists of the 'is/ought' or, more generally, 'is/is-to-be-sought' distinction, Henry Veatch, an Aristotelian of a different

school, objects that already 'written into' the 'is' of the nature of human beings is how human beings should be; their good or fulfillment.¹⁰ For can we understand what it is to be a human (or other living thing) if we do not understand what is good for humans (or other living things)? Though suggesting that 'ought' is already written into human nature, Veatch nonetheless claims that it is through theoretical reasoning that we determine what is good, after which practical reasoning, in Veatch's sense of practical reasoning, simply determines the means to the attainment of this end.¹¹

To this Finnis replies¹² that it is indeed necessary to know what is good for persons in order to have a full picture of our nature, but that this picture is composed with the aid not only of theoretical, but of practical reasoning (by which Finnis means to refer to our understanding of what gives point to human activity). This reply seems reasonable; however, it is surprising how little space is left for any good which is theoretically known and refers simply to normal biological functioning. Finnis asserts, in his paper in reply to that of Veatch, that judgements about man's 'natural end or fulfillment or good', about 'what he ought to be', are 'primarily (though perhaps not exclusively) judgements of practical reason or practical science.'¹³ One might object that 'good' in the sense of 'an aspect of normal functioning' can also be used in the case of non-human living things, without necessarily referring to any reason for action on the part of human persons. Cockroaches, too, can participate in this kind of good, which does at least seem to qualify as an 'internal' kind (unlike the 'goods' of machines which relate to human purposes). Such functional goods are identified, not by cockroaches from the inside, but by people from the outside, in what may seem on the face of it to be purely theoretical, severely scientific judgements.

Finnis would appear to agree that some theoretical knowledge - of our constitution, and of other things - is a precondition of any reference to 'is-to-be' and 'ought-to-be' in the case of human persons. However, Finnis stresses the fact that practical knowledge of our human fulfillment is essential to any full knowledge of our human constitution, or even, perhaps, of the constitution of members of other species. Take the following passage from Finnis's original work, to which he refers in replying to Veatch:

It is true that the natural law theory of, say, Aristotle and Aquinas goes along with a teleological conception of nature and, in the case of Aquinas, with a theory of divine providence and eternal law. But what needs to be shown is that the conception of human good entertained by these theorists is dependent upon this wider framework. There is much to be said for the view that the order of dependence was precisely the opposite - that the teleological conception of nature was made plausible, indeed conceivable, by analogy with the introspectively luminous, self-evident structure of human well-being, practical reasoning, and human purposive action [...] ¹⁴

Whatever we think of this interesting reversal, it does seem to be the case, as Finnis would probably agree, that there exists a irreducible gap between on the one hand both 'y prolongs X's existence' and 'y makes X a well-functioning specimen', and on the other hand any 'is to be sought' statement, let alone a moral conclusion.¹⁵ In practice we refer without hesitation to function and dysfunction, healthy and unhealthy states of plants and lower animals. Though decline is as characteristic for these as flourishing and growth, the latter, and not the former, is seen as in their interest. Further examination of such teleological assumptions would, however, take us too far from the subject under discussion.

One benefit rightly claimed for natural law theories in general is that they do refer to the fulfillment of human persons, unlike theories which see moral norms as mere side-constraints, or as the fruit of some intuitionist, or other moral thinking dissociated from any general, objective good. We should note, however, that if there are objective goods which supply moral reasons, then our desires play a lesser role

than they do in some moral theories, whether or not they are necessary, as the new classical theorists claim they are,¹⁶ to stimulate us to respond to moral reasons. Desires can be for things far removed from human fulfillment, whether one's own or that of others. Yet desires will very often refer to some basic good of persons, which nonetheless will not necessarily imply (as we shall see) that the action they indicate is one which is fully reasonable. Both the basic goods and the demands of morality exist independently of our choices and desires; good, not as chosen, but as to-be-chosen.

The new classical theory thus calls into question something which is often taken for granted: that all personal rights are, in principle, waivable, whether or not the right holder is in a position to waive them. Autonomy, while necessary for many forms of fulfillment, provides no guarantee that choices appropriately correspond to the basic goods (though respect for autonomy will sometimes dictate that we do not attempt to force benefits on others). A choice to allow oneself to be murdered, or tortured, would not involve the genuine waiving of a right. The new classical theory does not base morality simply on respect for agents' choices. For if your possible participation in basic goods can provide you with reasons for action, however you choose to respond, cannot the possible participation of other persons provide you with reasons, whether or not these persons are agents at all? While it is true that rights relate to the kind of thing which can be rightfully claimed, no-one need actually make, or relinquish, the relevant claim in order for a right to exist.

Respect for persons, according to the new classical theory, involves respect for the basic goods which fulfill them. Of course, in acting for the basic goods, we can only hope to promote them in the persons for whose sake we are acting. Thus love for a person refers, in the full sense, to the whole person: both the person's given reality,

and the fulfillment still hoped-for. 17 When we focus on love in the practical sense, however, the only way we can act for a person is through fostering, in and for that person, the basic human goods. For whatever about a person is already given is not something which can be affected by our actions, and therefore not something which can enter into a practical love of that person.

What, then, are the guidelines for this practical love or respect for human persons (including oneself)? The new classical theorists refer to Aquinas's principle of "synderesis" or practical reasoning - "good is to be done and pursued, and evil avoided" - which they believe should be understood as providing not moral, but pre-moral guidance for action. 18 They claim that the first principle of practical reasoning does not as yet exclude all immoral choices, but merely directs us away from pointlessness in practical thinking; say, doing something or thinking something over and over again, long after the point has been exhausted. The principle requires, in the words of its proponents, that "every deliberative action be undertaken ultimately for the sake of some benefit - that is, something in which one is basically interested because one is directed to it by a practical principle which is a premise of one's practical knowledge." 19 From the first principle of practical reasoning its proponents go on to formulate the first principle of morality:

Insofar as it is in your power, allow nothing but the principles corresponding to the basic goods to shape your practical thinking as you find, develop, and use your opportunities to pursue human fulfillment through your chosen actions. 20

The new classical theorists thus distinguish between an immoral use of practical reasoning (focusing on one intelligible benefit, but failing to respect the others) and the use which corresponds to the ideal of "integral human fulfillment": participation in all the basic goods, by all human persons. Immorality is therefore best described as an unjustified narrowing of one's concerns:

[...]the ought-to-be which calls for morally right choice represents the full directiveness of the principles of practical knowledge, while the is-to-be which commends the morally wrong choice represents only a fragment of that directiveness operating in isolation from the whole. 21

We must, it is claimed, adopt an attitude of openness towards those basic goods we are not promoting at any one time. This attitude will require that we do not discount or maliciously attack an instantiation of a basic human good. Indeed, the attitude asks more of us than this, in the view of the new classical theorists. They claim that one may never attack an instantiation of a basic good - even in defence of an instantiation of that good or others - even when defending oneself or others against an attack. Harm to persons may never be intended, since

The principles of practical knowledge of themselves always direct to the opposite - to benefit persons, both oneself and others. Moreover, these principles direct one to live at peace with others and to avoid hurting oneself, and everyone knows from experience that harming others is likely to have consequences contrary to these interests. 22

We will be looking later at some of the problems arising at this level in the new classical natural law theory. Here we will

mention briefly some alternative suggestions with regard to the principle that good is to be done and evil avoided. Veatch, as we have seen, holds that the good of humans and animals is ascertained "theoretically" through an examination of their natural potential. The synderesis principle is, in Veatch's view, the principle which directs man to act as he must in order to fulfill this pre-existing potential. Since man is not only a rational but also a political animal

the good alike of oneself and of one's neighbours just is a part of one's own goal, as being the natural end of any human being: it just is what any one naturally desires. Very well, if in the light of theoretical reason this is seen to be the true good for man, and if by the first principle of practical reason the good is that which is to be pursued just as evil is to be avoided, then practical reason may therewith move in to demonstrate that one does indeed have a moral obligation to love one's neighbour as oneself [...]

At this point it might, of course, be objected that the empirical fact that human beings are the kind of being who tend to group together and to value what they see as each other's fulfillment says nothing about whether or not they ought to do either of these, if they happen to have no interest in either. However, since Veatch sees values as "written into" what he calls a theoretical understanding of human nature (for example, he would presumably distinguish between the potential for "fulfillment" and the potential for "decline"), he could respond that whatever else his theory involves it does not involve an attempt to derive the moral from the value-free.

Vernon Bourke in his discussion of the synderesis principle takes it to refer to the need to distinguish between good and bad desires, and to mean:

"of the items you desire, seek and do the ones that are good for you as a human being - and reject the others" 24

Bourke thus interprets the synderesis principle as a moral, not as a pre-moral principle, arguing that it refers to the "suitability or unsuitability of what is contemplated practically, in relation to the agent in his actual circumstances as ordered to his ultimate end." 25 All acts in the concrete are morally good or bad, and the function of the synderesis principle is to order that certain moral goods are to be worked for, while contrasting evils are to be rejected.

Ralph McInerny 26 has also taken a different view of the synderesis principle from that of the new classical theorists. Like them, McInerny argues that things desired are already desired as desirable, in the sense that they are thought of as "to-be-desired"; as perfective of the agent. However, McInerny does not concede that that things desired are in reality to-be-desired in a pre-moral sense, as the new classical theorists argue is the case, at least where the agent does not aim at some purely emotional goal. 27

McInerny claims that the meaning of the synderesis principle is to direct the agent to ask whether something already sought as perfective of himself is in fact so perfective. If it is not, then he has no reason to seek it (though he may go on to do so, through weakness of will). While there are "goods" - natural objects of inclination - shared by humans and other living things, such goods only become human goods through entering under the guidance of reason, which is distinctive of human beings. Moreover, human goods are good only when pursued in a way appropriate to a rational agent. Human values, and the principles of practical reasoning, are not pre-moral, but moral. Like Bourke, McInerny sees the evil referred to in the synderesis principle as moral evil, not as pre-moral harm or damage. In particular, he is unwilling to accept that human values, together with the principles of practical reason, can direct us to bad action, as well as to good. Of the precepts of natural law McInerny says that these are

general directives to the ultimate end, the most general one pointing to the human good in all its amplitude, other very general ones aiming at constituents of the human good. 28

Against McInerny it can be argued that a value such as life, however immorally it is pursued, is still a human good in the sense that it provides reasons for action which are both real and particularly serious, relating as they do to the life of a human. An immoral action to save the agent's life is rational in a way in which an immoral action to inflict pain is not - or not without

some further story as to how the action will bring about some basic, intelligible good (the new classical theorists will here suggest the basic good of "harmony between one's feelings and one's judgements and choices"). The life of the immoral, like that of the moral person, is always a human value-to-be-pursued. If the immoral person pursues this good rationally (like a human) but unreasonably (without respect for other values and principles) is this not a case in which a genuine human good provides some kind of reason, though not a moral reason, for action?

Natural law theories are not, of course, the only theories which seek to ground morality in objective goods of persons. Among theories which accept the existence of objective goods, rather than mere individual preferences, there are those according to which these goods are to be promoted according to different moral principles. Consequentialists may share with their opponents, in the words of Phillip Pettit, a "theory of the good" (or at least, some aspects of a theory of the good) while parting company with their opponents in their "theory of the right" regarding which option one should choose.²⁹

Consequentialism cannot be defined too exactly, as consequentialists hold a variety of beliefs. The following are some characteristic beliefs, a selection of which is likely to be held by the consequentialist.³⁰ It may be claimed that the only reason for or against the performance of an action are the consequences performance or non-performance

will have - consequences being taken by many to include the fact that one performs the act in question. All reasons are comparable, and can be ranked by weight. An action or class of actions is right if and only if its performance maximizes value, or expected value. In evaluating an action the consequences of omissions count for just as much as the consequences of commissions - and the foreseen consequences of an action just as much as the intended consequences. The comparable value of any two states of affairs is the same from the point of view of all agents.

One objection often raised to consequentialism concerns this last assertion. Consequentialists may agree with non-consequentialists that reasons for action are sometimes 'action reasons': that is, that persons can be fulfilled in certain ways only through their engaging in certain actions. Consequentialists may, however, claim that our duties are 'agent neutral': that in encouraging or discouraging actions there is no reason to treat our own actions differently from the actions of others. To this it has been objected that it is an attack on a person's integrity to expect that person to put his own projects on a par with everyone else's.³¹ For whereas agent relative moralities allow the agent to put his own projects first, within reason, agent neutral moralities alienate the agent from the projects with which he is most closely identified.

It can be claimed, more specifically, that it is a serious shortcoming of consequentialism that it passes over our special responsibility for our own actions, making nonsense of the claim found in Plato and Democritus³² that it is better to suffer evil than to do it. The objection is that your own participation in some action (say, killing an innocent person) is not something which can simply be added to or subtracted from the other implications of that action. The idea that you may have a duty to kill, to prevent a greater number being killed by someone else, ignores this special subjective phenomenon of willing, or not willing, that you yourself take a

certain kind of action. Your own action, unlike those of others, must have your assent: a fact which is morally significant. If you perform an action then you must have willed it, if only as a means to something else, which is not the case if someone else wills the same action, following your refusal. The benevolent person, as Philippa Foot puts it,³³ does not will that a whole consisting of a killing to minimize killings be instantiated either by him or by anyone else. And if such a whole is instantiated by someone else, following the benevolent person's refusal, this is not something the benevolent person has willed, any more than he wills the killings which have been prevented. There is, on this moral approach, a difference which can be conclusive between allowing something to happen without your will, and purposely bringing it about.

The most radical form of criticism of consequentialism is that which contends that the whole consequentialist approach of seeking to instantiate 'the best' state of affairs is not only misguided, but senseless. Grisez follows this line of argument further than Foot, arguing that to attempt to sum up benefits in the way that consequentialism requires is like trying to sum up 'the quantity of the size of this page, the quantity of the number nineteen, and the quantity of the mass of the moon'.³⁴ Goods are good, after all, in different ways; and there is no 'supervalue' running through the various values, in virtue of which one can be unqualifiedly better than the others. One argument offered by Grisez in support of this claim refers to the very possibility of choosing among options.³⁵ Grisez claims that free choice is possible precisely because one option for choice is not better in every respect than another. No option offers the same good as other options, plus some additional good. We are rationally torn between possibilities because they are incommensurable - both instantiations of different goods and instantiations of the same good. For it is not just categories of value, but individual values which are incommensurable, so that the lives of different persons, for example, cannot simply

be added to and subtracted from each other. Grisez claims further that even within the same life instantiations of the same good will not be commensurable in the sense that one instantiation promises all the good of other instantiations, and then some.³⁶

What are we to make of this line of argument? It does seem to be the case that many free choices are made between rationally attractive values, despite the fact that some free choices, as indeed Grisez now argues,³⁷ are not directed at one among the list of basic human goods, but rather at some emotional goal. However, it also seems that rationally attractive values, even if one is not better in every respect than the others, can be compared for moral purposes, if not commensurated in the sense used by Grisez. We should look for some morally relevant scale on which values can be compared, notwithstanding the fact that no value promises all the good, and more, which is offered by any of the others.

For example, Grisez and other proponents of the new natural law theory will not want to deny that values and disvalues can be compared on any scale. They will naturally want to maintain that there is one scale on which non-moral harms weigh less than moral wrongs. (Here it should be stressed that talk of weighing or comparing does not imply that enough of one value will equal a certain amount of another.³⁸ On the contrary, no non-moral disvalue could weigh more, on the moral scale, than actual wrong-doing.³⁹)

In order that values may be compared for the purpose of making moral decisions it is not, therefore, essential that one be superior in every respect to the others; only that it be superior to the other values in some respect which is morally significant. What could be the common measure used in the moral assessment of different instantiations of goods? We could claim that the common measure is good 'to

someone's life' - but this merely confronts us once again with the fact that instantiations of different goods will be good to a life, or different lives, in different ways. Is it possible to say, nonetheless, that a 'small' instantiation of one good may benefit some person or other objectively less than a 'large' instantiation of a different good?

Some attempt to defend consequentialist comparisons by referring to the unifying scale of what we or others prefer, or would prefer with different information. Michael Perry makes the point that very different goods can be compared on such a scale of preference.⁴⁰ Yet as Robert George points out in his paper in answer to Perry,⁴¹ our preferences with regard to a particular moral action cannot be what makes it right and wrong. The standard of what I prefer cannot be the standard of comparison the consequentialist needs. For the consequentialist wants to say not 'I happen to prefer this option' (sadists, after all, will have different preferences) but 'this option is morally preferable.' Moreover, the standards by which we judge something commensurably better than something else cannot be justified in consequentialist terms,⁴² since these standards would have to be already in force for any consequentialist commensuration.

This point becomes clearer when we consider what we would regard as examples of appropriate distribution of goods among persons. There is, notoriously, no pre-moral 'amount of good' we can calculate in order to find out which of these outcomes would contain 'more good': greater benefits for fewer people, or lesser benefits for more. Sometimes, to be sure, relative amounts will seem unproblematic. It is hard to deny that a happy family is better than a happy man.⁴³ However, in those situations in which the 'better' situation does not simply contain as much good

and more as the 'worse' situation, it is obvious that we must be making our judgement on the basis of moral presuppositions.

To begin with (and this will apply even to the case of the happy family) whose good do we count - ours, some people's, or everyone's? We will only consider everyone's on a pre-count principle of justice; we are not weighing amounts of good in a moral vacuum. We are reminded of problems with contractarianism concerning the conditions for a choice of moral principles. If we insist that those in the position of choosing moral principles are not to be allowed to choose with the benefit of 'unfair' advantages, then we already have at least one moral principle prior to the establishment of the mechanism for determining moral principles. In the same way, a certain distribution of goods among persons may be counted a good thing partly on the basis of its conformity with justice.

It is in the light of justice that we compare possibilities. Justice directs us not to discount the interests of other persons: to regard values as values, in whichever life they fall. Yet justice must refer to the internal importance of particular instantiations of good in the lives of particular people. Both justice and some principle of internal 'balance' are needed to tell us when one instantiation in one person's life is of less importance, morally speaking, than another in someone else's.

Perhaps, after all, we can agree with the consequentialist that all reasons are comparable in strength - comparable, that is, on the moral scale. A small instantiation of one good is the kind which tends to produce slight reasons for action relative to others. In contrast, there are more complete instantiations of good: those which tend to produce weightier reasons. We must, of course, bear in mind the wider moral context when coming to moral conclusions. The good of staying alive

may be a greater benefit to me (the kind of instantiation that tends to produce greater reason for action) than some item of knowledge is to you. However I may not lie my way into getting you, a stranger, to meet the cost of my very expensive life-saving operation. This would be, among other things, a deliberate attack on the good of knowledge (to use the term of the new classical theorists); moreover, there are no special factors present in this case, of the kind we will look at shortly. The implications of my choice will include this wrongful attack, and my choice will thus be worse, on the moral scale.

To return to the case of the killing to minimize killings, we should agree with Philippa Foot that the non-consequentialist need not concede to the consequentialist that to forgo such a killing is to bring about a 'worse state of affairs'.⁴⁴ For even a wrong to minimize wrongs may not improve the outcome in any sense relevant to the choice of the prospective wrong-doer. If you believe there is some moral reason against your envisaged action - say, it involves a serious lack of respect for another person - you are unlikely to think that this can simply be added to or subtracted from the consequences of the action in question - even that of promoting respect for persons.

Comparing values and disvalues is not very difficult when one option already consists of what can be seen as morally conclusive. We will now return to the more alarming task of comparing, or commensurating, the pre-moral values of various options. Here I would argue that a concept such as the new classical ideal of 'integral human fulfillment' actually requires that particular instantiations of goods be commensurated in some sense for the purpose of making decisions, notwithstanding the fact that the new classical theorists deny that commensuration is possible. For even assuming that no damage to any good is intended, does not the concept of

'integral human fulfillment' refer also to the possibility that basic goods may be wrongfully neglected? If so, does this not suggest that relative 'amountness', by some moral standard, of separate instantiations of goods must be involved in our judgment that values in some category are being wrongfully neglected? How will we know if we are responding adequately to the ideal of 'integral human fulfillment' with regard to our own lives, if the various instantiations of basic goods cannot be compared with each other? The same is true if we are assessing the lives of other people. Parents may act unjustly by favouring one good in one child 'very much more' than a different good in a different child. And in general, if choosing one good at least incidentally damages another, and if this is not to count as insufficient respect for that other good, then it seems that (allowing for our prior responsibilities) the first good is provides more or equal reason for action than the second.

It is interesting that the new classical theorists, while claiming that even 'same person/same good' instantiations of good can be, in their sense, incommensurable, nonetheless want to say that aggressors should be deterred with minimal force: i.e., by means which cause less damage than other means, though (presumably) not less damage in every respect. If instantiations of the same good can be compared as reason- providers, despite one not being better in every respect than the others, can we not imagine many other forms of comparison if not (in the strictest sense) commensuration?

Charged with the fact that the morality of accepting side- effects presupposes that there is some sense in which goods can be weighed, the new classical theorists offer a surprisingly subjectivist account of this kind of moral judgement.⁴⁵ An adverse side-effect is too great in relation to the intended good if the harm of the side-effect is greater than one would be prepared to accept for oneself or one's friends. The problem with this approach is that we can imagine a situation in which much more

would be acceptable to the agent than, we might want to say, was reasonable. Both my own and others' judgements of what is 'too much' should surely be based on something other than how we feel, or would feel. Subjectivism is only appropriate when we are concentrating on some emotional harm or aspect of harm, such as pain; and even here, it is the sensibilities of the subject, not the agent, which count. If we leave aside the emotional aspect of the harm, or consider a harm without an emotional aspect, we will find ourselves confronting not what is preferred, but rather, once again, what is preferable.

For example, a harm to the good of knowledge may be slight in relation to other harms to the good of knowledge, and similarly, less important to a person's all-round fulfillment than a very comprehensive harm to the good of health. A world in which people did regard, say, the loss of their right arm as a reasonable price to pay in the course of avoiding some trivial error would be a world of the insane. It is interesting that despite their description of commensuration as subjective, the new classical theorists claim that

the upright person's subjective commensuration by intuition of feelings itself will be formed and tested by moral standards. The temperate person does not have the feelings of the intemperate, and so on. ⁴⁶

We should, I would argue, recognize further that these moral standards are what ought to be guiding our judgements. The question 'how would you like it?' should be treated not as an invitation to base a judgement on one's own emotional data, but as a rough and ready test for bias.

Before moving on from the subject of commensuration we should note one serious problem in weighing alternatives for choice. This relates to the question of

indeterminacy of outcome - to the fact that we may find ourselves choosing between, for example, a small risk of a very substantial disaster, or a substantial risk of a small one. Alternatives may not be merely indeterminate with reference to our knowledge, but indeterminate in principle, as depending on the free choices of other agents, following some free choice of our own.⁴⁷ It is clearly ridiculous to attempt to consider indefinitely branching possibilities. A cut-off must be made quite early. Yet the likelihood that those most nearly affected by our action will act in a certain way themselves is clearly something we have to bear in mind as we make our decision. Can it really be the case that, when faced with different likelihoods of different instantiations of goods, we are unable to make an objective, rational judgement, to the effect that one option is 'more wise', 'less wise', or 'as wise' as another?

We cannot hope to compare the endlessly unfolding outcomes of every possible option for choice. However, we can compare, in the light of pre-existing moral principles, a limited number of instantiations of good which are likely to follow from a limited range of options. Consequences should be compared in so far as this is reasonable - in so far as they are sufficiently serious or likely to eventuate, and sufficiently close to the action envisaged. In limiting our consideration of possible consequences to those related in certain ways to our actions, we are parting company with the consequentialist, and moving in the direction of theories according to which our duties depend on such factors as our particular relationships, as well as on whether some outcome is part of our intention, or at least, closely enough related to what is part of our intention.

It is, I would argue, essential to recognize a distinction between our chosen actions and the side-effects of these - without, of course, assuming that side-effects cannot provide conclusive reasons against possible actions. As we saw earlier, it can be morally significant that a certain outcome is not merely permitted, but intended;

moreover, we cannot favour all values simultaneously, and any choice to favour one will involve the (usually innocent) forgoing of chances to favour others. For example, it seems incredible that to use scarce medical resources to save one person rather than another is the same kind of action, morally speaking, as killing one to use her organs for another. We are not looking simply, as a consequentialist might, at what results in a loss of benefits for persons, but at the kind of relationship between this loss of benefits and the intention of the agent. There is more to homicide than the curtailment of some (necessarily uncertain) span of life. We would not think we should save the life of someone critically ill by 'heroic' medical intervention only to subject this person to fatal experimentation; and this despite the fact that such a course of action would involve no greater loss of life than would non-intervention.

What of the claim that basic goods can never be directly, that is, deliberately attacked? Is this a necessary condition of respect for persons? As we have seen, the new classical theorists believe that basic goods such as life may never be attacked, not even in the case of unjust aggression. For aggressors, after all, are persons, and life is as much a basic good for them as it is for any other person.

If life is a basic good, there does seem to be an anomaly in defending killing, for example, in self-defence. Certainly life, like other human goods, must be recognized as a good for every human person, and never endangered out of malice or indifference. However, I do not think that the new classical theorists have shown that life, or indeed any other basic good, must never be attacked under any circumstance whatsoever.

We should remember that the category of 'life' includes, on the new classical theory, health and bodily integrity. The theory allows that lethal damage may be caused an aggressor in the course of legitimate self-defence.⁴² An unjust aggressor may be

repelled with necessary force, which may prove incidentally fatal. However, it is likely that the choice to use necessary force will include the choice to cause enough damage to the aggressor's body to halt the act of aggression: surely at least a deliberate, and perhaps a substantial attack on health and bodily integrity. If a choice to damage bodily integrity may be permissible, why not, as a last resort, the choice to kill? Only if we are literally using mere defensive force (as when we push our assailant away, and only incidentally off a cliff) can we truthfully say that we are intending no direct attack on any basic human good.

I have, as will by now be apparent, a great deal of sympathy for the new classical natural law theory. However, I do not believe that this theory can be accepted as it stands. Where I think we should depart from it is at the stage of formulating the guidelines for respecting persons, which, I would argue, should be brought more in line with common non-consequentialist moral norms. Deliberate attacks on play or knowledge, or life itself, are sometimes countenanced for sound, non-consequentialist reasons. Thus in the case of knowledge it is often claimed that the right not to be deceived is a right which can be forfeited; for example, when, due either to malice, or simply a liking for gossip, the possession by one person of some item of information would endanger the life of another. As the direct harm envisaged grows more substantial, so too must the reason for causing it; and must involve, when the direct harm is more than slight, a serious and deliberate threat on the part of the person harmed. Moreover, we should remember that the welfare of, for example, an unjust aggressor may not be accorded no value, or a negative value. Aggressors may not be killed by just anyone, or for just any reason, although they have laid themselves open to some forms of attack. Direct harms, even when inflicted for the sake of some good, are always unfortunate, and often wrong.

To sum up: the new classical theory, while in many ways attractive, should be made more heterogeneous. The fact that direct attacks are often wrong does not mean that direct attacks are always wrong: however slight the good harmed, however good the good promised, however guilty the victim of a much more harmful intention. A somewhat different 'theory of right' will have to be constructed. What will such a theory look like?

It will be built on the basic human goods, which indeed are not easily discounted as aspects of our fulfillment. It will be responsive to the link between outcome and intention, and therefore to the difference between what we might wish for independently of our choices, and what we can realize only through a choice of our own, of the kind for which we are peculiarly responsible. It will disallow many, though not all, direct attacks, which are intimately bound up with our intentions, as well as the causing of side-effects unacceptable in the light of justice, the internal balance of each person's life, and so on. As responsive to the fact that the goods of persons are good for all persons, it will disallow any total discounting of these, and any direct attacks on them for the sake of, say, emotional gratification, rather than for some genuine good. It will disallow any attack on a substantial instantiation of a basic human good, except in the case of some who have wrongfully chosen to attack such an instantiation in others.

What will be some further characteristics of this theory? These will be left for the following (and final) chapter, in which we will be considering, not persons in general, but persons at a time close to their origin.

Notes

- ¹ Perhaps someone who was 'merely' alive could be said, on this view, to have an interest in a hypothetical cure, although if there was in reality no chance at all of a cure, the interest would give rise to no rights and duties. Stone, who sees moral importance only in psychological potential, touches on this in connection with the infant born without an upper brain: 'Unlike rocks and trees, Andrew has a welfare - there is a good for Andrew - but as Andrew will never be conscious, he will never attain it. Nothing we can do will enable Andrew to actualize his nature, hence there is nothing we can actually do which benefits him, for Andrew has no interest in a life he will never experience' (Jim Stone, 'Why Potentiality Matters', Canadian Journal of Philosophy 17 (1987), p.822.)
- ² See, e.g. John Finnis, Germain Grisez and Joseph Boyle, Nuclear Deterrence, Morality and Realism (Oxford: Clarendon 1987), pp 304-309.
- ³ Ibid., p. 354.
- ⁴ Ibid., p. 304.
- ⁵ Ibid., p. 305.
- ⁶ Ibid., pp. 306-307.
- ⁷ Ibid., p. 307.
- ⁸ Germain Grisez, Joseph Boyle, and John Finnis, 'Practical Principles, Moral Truth, and Ultimate Ends', American Journal of Jurisprudence 32 (1987), pp. 245-246. This paper is a very recent statement of the theory, which has undergone some changes.
- ⁹ Ibid., p. 108.
- ¹⁰ Henry Veatch, 'Natural Law and the 'Is'-'Ought' Question: Queries to Finnis and Grisez', in John Finnis (ed.), Natural Law Vol.11 (Aldershot: Dartmouth, 1991), pp. 293-311.
- ¹¹ Ibid., pp. 310-311.
- ¹² John Finnis, 'Natural Law and the 'Is'-'Ought' Question: an Invitation to Professor Veatch', in Finnis (1991), pp.318- 319.

- 13 Ibid., p. 319
- 14 John Finnis, Natural Law and Natural Rights (Oxford: Clarendon Press, 1980), p.52
- 15 See Grisez, Finnis and Boyle (1987), p.127
- 16 Ibid., p.104.
- 17 Grisez, Finnis and Boyle (1987), p.115
- 18 Ibid., p.119
- 19 Ibid., p.120
- 20 Ibid., p.121
- 21 Ibid., p.125
- 22 Ibid., p.123
- 23 Henry Veatch, "Variations, good and bad, on the theme of right reason in ethics", The Monist 66 (1983), p. 67
- 24 Vernon Bourke, "The Synderesis Rule and Right Reason", The Monist 66 (1983), p. 73
- 25 Ibid., p. 76
- 26 Ralph McInerney, Ethica Thomistica (Washington: Catholic University of America Press, 1982), Chapter 3
- 27 Grisez, Finnis and Boyle (1987), pp.104-105. The authors make the somewhat counterintuitive claim that emotional goals such as that of avoiding pain cannot themselves constitute reasons for action. However, they now include among the list of basic goods "peace of mind" or harmony between feelings, judgements and choices, which can be affected by pain. There remains the problem of explaining why causing pain to non-rational persons may be wrong irrespective of whether this pain is an aspect of some wider harm.
- 28 McInerney, p. 47
- 29 Phillip Pettit, "Consequentialism and Respect for Persons", Ethics 100 (1989), p.117
- 30 Joseph Raz, The Morality of Freedom (Oxford: Clarendon, 1986), pp. 268-271
- 31 J.J.C. Smart and B. Williams, Utilitarianism: For and Against (Cambridge: Cambridge University Press, 1973), pp.116-117
- 32 See Anselm W. Muller, "Radical Subjectivity: Morality versus Utilitarianism", Ratio 19 (1977), pp.115-32

- 33 Philippa Foot, 'Utilitarianism and the Virtues', Mind 94 (1985), p. 207.
- 34 Germain Grisez, 'Against Consequentialism', American Journal of Jurisprudence 23 (1978), p. 39.
- 35 Finnis, Grisez and Boyle, Nuclear Deterrence, Morality and Realism, pp. 254-256.
- 36 Grisez, Finnis and Boyle (1987), p. 110.
- 37 Ibid., pp. 122-125.
- 38 See James Griffin, Well Being: its Meaning, Measurement and Moral Importance (Oxford: Clarendon, 1986), p. 89. This is, in Griffin's terminology, 'trumping', as opposed to strict incomparability among values, which would seem to make impossible rational (as opposed to emotionally based) decisions that an action ought to be performed.
- 39 Finnis, Grisez and Boyle, Nuclear Deterrence, Morality and Realism, p. 255.
- 40 Michael J. Perry, 'Some Notes on Absolutism, Consequentialism, and Incommensurability', in Finnis (1991), p. 68. Griffin (1986) takes a somewhat similar approach, in attempting to ground his moral theory not on our actual but on our 'informed' desires. While denying the existence of a 'supervalue' running through all other values, he nonetheless claims that there is a common scale - 'worth to someone's life' - which relates to these informed desires (p. 90). Yet since, in order to exclude morally inappropriate desires, we will presumably need moral judgement to say when a person is 'properly' informed, should we not focus our attention on moral judgements, and dispense with hypothetical desires?
- 41 Robert P. George, 'Human Flourishing as a Criterion of Morality: A Critique of Perry's Naturalism', in Finnis (1991), pp. 71-90.
- 42 Ibid., pp. 86-87.
- 43 Finnis, Grisez and Boyle, Nuclear Deterrence, Morality and Realism, p. 262.
- 44 Foot (1985), p. 207.
- 45 Finnis, Grisez and Boyle, Nuclear Deterrence, Morality and Realism, pp. 263-266.
- 46 Ibid., p. 266.

⁺⁷ See Peter Geach, The Virtues (Cambridge: Cambridge University Press, 1977), p. 99.

⁺⁸ Finnis, Grisez and Boyle, Nuclear Deterrence, Morality and Realism, pp. 312-313.

Conclusion

Before ending with a discussion of the status of early persons, we will briefly run through the findings of previous chapters. Theories were looked at according to which we are minds, or series of experiences. It was argued that we are, on the contrary, biological entities, whose experiences are not (but whose spatio-temporal origin is) essential to our existence. Theories were looked at according to which we first existed as persons at some stage later than fertilization, whether as entities distinct from the early organism, or as phases of that organism. It was argued that the human organism is itself a person, from its first appearance as a rational kind of being, so that morally significant interests in the future of a human appear simultaneously with the human. A recent natural law theory of human goods was looked at, consequentialism looked at and rejected, and some principles sketched out regarding the treatment of persons, in order that the status of which we are the bearers could be somewhat better described.

What should we say in particular about our moral status during the times closest to our origin? Persons are alike in all being morally important; however, not all persons have the ability, or even the potential, to participate in all the human goods. Therefore, to say that all persons are the same kind of moral subject is not to say that we are all subjects of, for example, exactly the same personal rights. Our being persons (and thus morally important) is indeed 'inalienable'; however, this cannot be said of our personal rights. Some rights may be forfeited through actions of our own.

Others may simply fail to apply to us at all, if we are unable to lose, or enjoy, the benefit to which they refer.

For example, one of my rights as a person is (most of us would agree) that I not be brainwashed. It is not, however, a condition of my personal existence that I be susceptible - now, or ever - to this kind of harm. It is merely true that, if I am so susceptible, I must not be subjected to this harm. While typical persons can be brainwashed, tortured and corrupted, some persons are immune from these harms for the whole of their lives. However, due to the nature of human persons as living moral subjects, there is one harm to which we are almost always susceptible. Life is unusual in being an aspect of persons in which we not only can, but must participate. Persons, as living entities, are susceptible to assault and neglect. Rules about homicide therefore apply to persons in general. We are assuming that persons may not be deliberately killed - or at least, not until we forfeit some of our rights through aggression, naturally at a time far removed from our origin.¹

The sphere of respect for persons is wider than that of rights, in allowing space both for supererogation, and for obligations to help, not one person in particular, but one (or some) out of many. We should also remember that there are rights and obligations which exist among friends, family, and so on, but not among people in general. In fairness we need a reason for ascribing an obligation to one person rather than to others. A reason may be found if we refer to goods such as friendship, which can only exist in the context of particular relationships, which naturally involve particular burdens. More generally, the existence of particular relationships means that tasks are usefully divided. The principle of no arbitrary preference among persons requires not that persons be treated indistinguishably, but that any differences of treatment be justified, rather than simply explained.

Rights-talk is used, at least sometimes, to refer to moral conclusions, which, unlike claims and interests, cannot be said to conflict (that is, if we take it that there is always an answer to the question 'what, if anything, must I do?') Some of our rights originate in particular relationships involving family members, or simply those who find themselves, accidentally or otherwise, responsible for our welfare. Rights such as these, together with rights against the world at large, are particularly important for our survival through childhood. For as the kind of being we are, we need care and feeding for many years after birth, and maternal feeding and shelter before.

It is sometimes claimed, however, that to refuse this kind of support - or at any rate, to refuse prenatal support - can be justified as being, not an active harm, but a mere refusal to benefit. Conferring a benefit is seen as more often supererogatory than avoiding active harm to others. Thus Feinberg argues that

It is generally much more plausible to make claim against others not to be harmed than to make the claim to be positively benefitted, contractual considerations aside [...] When a fetus with a promising future is aborted, neither he nor any other existing being is harmed by it (unless harm is confused with nonbenefit).²

With regard to this point, it should be noted firstly that the refusal to benefit may be backed up by direct killing, with the aim of preventing the individual killed from requiring benefits at any stage. Thus if, for example, handicapped persons are deliberately killed by the State, this cannot be seen as simply a missed opportunity to benefit handicapped persons. If it is true that persons originate at fertilization, and that the direct killing of innocent persons is unjust, then direct abortion, together with destructive research on embryos, must be regarded as unjust. Direct killing involves either the intention to end the victim's life, or the intention to make such inroads on the victim's physical integrity as to be incompatible with survival. Abortion by any means which involves this kind of attack cannot be seen as a mere refusal to benefit.³

What of cases in which our intention is indeed, at very most, to refuse to benefit some person? We should remember that indirect killing, like other forms of indirect harm, may be justified in many cases. There are many blameless activities which pave the way for deaths which, though unintended, are expected. Such activities include the building of bridges and highways, the selling of drugs which for some will have fatal side-effects, and the allocation of scarce food or medical resources to one person rather than to another. This last is an example of a refusal to benefit one individual in particular, who, as an immediate consequence of our refusal, forfeits not some chance, but all chance of survival. Can we describe some forms of abortion - together, perhaps, with the non-implantation of embryos conceived in vitro - as a justified refusal to benefit some persons in the interests of benefiting others?

We will focus here on the intentional withdrawal of support, rather than on cases in which the withdrawal itself is a side-effect, so that its effects are still further removed from the agent's intentions (for example, when a miscarriage will result from radiotherapy).⁴ The question here is whether support by the pregnant woman can be seen as 'extraordinary' or 'heroic' support, of a kind which may be intentionally withdrawn. We do not regard it as wrong when, without intending a person's death, we decline to do everything conceivable to save that person's life. Pregnancy can involve significant burdens, both physical and emotional, for the pregnant woman. Can it, then, be regarded, at least in some situations, as 'extraordinary' support?

It is often claimed that the case of pregnancy is unique in involving the body of the supporter. We must remember, however, that the fact that we are living beings implies that our bodies are always involved, in one way or another, when we give each other support. A newborn child, for example, needs constant holding and feeding, whether by its parents or by others. In a situation in which the child will

only survive if nursed by the mother (say, she is on her own, or the only woman in her tribe) the relationship between her and her child is as necessary to the child's survival as is the pregnancy relationship itself. Reasons against regarding pregnancy as 'ordinary' support may need to be considered in relation to other forms of support, such as the care of newborn children. What could such reasons be?

Sometimes it is suggested that the very dependency of the foetus - and, it may be added, of the newborn child - is a reason for denying that there exists a right to be supported by those less dependent. Such reasoning appears to be behind the claim sometimes made that viability is a cut-off point for morally justified abortions. If it is dependency of any kind we are looking at, this argument is not persuasive. Any right to support implies some form of dependency. We are all dependent on others for survival at various times in our lives. Disabled people may need care, from their families or others, for the whole of their lives; care which may be as burdensome, though as willingly provided, as care for a newborn child. Such care is generally seen by the disabled and their carers as a matter of right, not of supererogation. Morality is, after all, concerned with the basing of relationships not simply on power, but on respect.

Granted that the sheer powerlessness of the person needing help would provide no reason for the other to refuse it, can pregnancy nonetheless involve burdens so great as to take it beyond the call of duty? In general we do not think that there is a obligation to go to all possible lengths to protect the lives of dependent persons, even if they are friends or family members. Is pregnancy - like, perhaps, some forms of intensive care for premature babies - extraordinary or heroic support?

It seems this cannot be so in standard cases. For pregnancy resembles normal care for the newborn far more than, for example, intensive care for the premature.

Support in pregnancy is even a paradigm case of ordinary support, being a kind we all receive. To refuse this support is to engage in a form of 'free-riding' on the face of it no more justified than refusing one's infant the basic care which saved one's own life. It is true that the burdens of pregnancy, and of care for the newborn, will differ from one situation to another. However, if the supporter remains in control of his or her actions, these burdens will normally make obligations harder to meet, rather than cancelling them entirely. Moreover, in the case of an indirect abortion support is not simply discontinued, in the way that, for example, one might not feed a baby during one's very painful illness. Rather, support is discontinued via the deliberate removal of the foetus from its normal place of safety; a place of the kind which shelters every human person, and which sheltered both its parents. The rights of supporters to the help of other people do not include the right to help in ceasing all support, if this will result in the death of the person supported.

This last statement needs to be qualified, however, when we turn to cases of extrauterine pregnancy. Here we can no longer speak of normal support or shelter. We need to consider the unusual location of the foetus, the increased precariousness of the support it receives, and of course, above all, the increased danger to the mother. The first factor alone would not suffice to swing the balance in the direction of extraordinary support. We would not, after all, omit some medical intervention merely on the grounds that it was unusual. Abdominal, as opposed to tubal pregnancy, has been taken to term without serious risk to mother or child. In the case of tubal pregnancy, in contrast, the second and third factors are present to a marked degree. Support through the fallopian tube is not only abnormal, but short-term, precarious, and highly dangerous to the supporter. We may therefore withdraw this support by removing the fallopian tube with the foetus inside, whose death, though expected, is not sought.

What if support is of the more normal, uterine kind, and will save the child, but at serious risk to the mother? Here it is especially hard to make an impartial judgement. Means of support cannot simply taken from one in the interests of another - unless, as in the case just seen, support for the former person was, for example, so precarious as to be worth comparatively little. However, we do believe that one person may sometimes be endangered in the attempt to save another's life. The plank which is in the blameless possession of Shipwreck Survivor A (though perhaps originally in the possession of Shipwreck Survivor B) cannot simply be taken from A and pushed over to B. However, when A is close to the lifeboat, the plank can perhaps be taken from A and given to B, to give A and a more equal chance. In the same way, premature birth can perhaps be induced, thus endangering the child, if this will give mother and child a more equal chance. Our often much greater sympathy with persons like ourselves, especially those already loved by us or others, should not make us unjust to those who, loved as yet by no-one, are innocently in possession of the means of survival.

We have not so far made much of special relationships, like that of parent and child. Some of the arguments looked at can be applied to situations in which we are obliged to care for the child of a stranger - as when we find a baby on our doorstep. Our duties can only be multiplied in cases where we have voluntarily brought about our position with respect to the life of another - or, at any rate, voluntarily brought about the risk or possibility of finding ourselves in this position. Thus an IVF scientist who has deliberately achieved the conception of an embryo in vitro must, on the face of it, go to some lengths to protect this embryo, having brought about her need for support.⁵ The same would appear to be true of the embryo's parents.

One reason often given for abortion, and/or infanticide, and/or the destruction of embryos in vitro is that such actions are a form of euthanasia, whether on social or

on medical grounds. It is claimed that there are futures which are so badly impoverished that we are not wronging humans whom we deprive of such a future. Only if a person will have a 'future of value'⁶ are there compelling reasons to save that person's life. So important to Feinberg is this consideration that from it he derives the only prenatal right he recognizes as being non- contingent on birth: the 'right not to be born'⁷.

In the last chapter, it was argued that life was a basic good of persons. If this is true, then the basic interest in survival will persist throughout a person's life, giving rise to certain rights and obligations whatever the person's physical condition. Thus when a person with some handicap claims that his life nonetheless has value, the value can be seen as attaching, not only to the other human goods his life contains, but to life itself. This is not to say that, for example, the pain a person will suffer may not influence our actions with regard to that person's life. A very painful and costly operation, which is nonetheless appropriate to secure a painless future, may not be appropriate to secure a future full of pain - or a short future, or one in which the patient will be unconscious. The benefits achieved would appear to be simply less, in relation to the burdens of intervention. It seems that the value of a life which is painful, short, or unconscious is less than it might be, in that there is insufficient reason to operate. Yet despite these considerations, there remains present what might be described as the 'core value' of the patient's life, providing conclusive reasons against some actions which would involve a lack of respect for this life. The question of what counts as appropriate medical intervention is a good example of the commensuration of values and disvalues in the context of existing moral principles; of the difference between putting a negative value on someone's life, and saying that a particular instantiation of the good of life is not enough to justify a certain cost in time, pain, money, and so on. It is not that life cannot be, in a sense, added and subtracted from other values and disvalues, but that this cannot be done

in a moral vacuum, or without a remainder. Despite all disvalues the value of life continues, generating duties which are themselves incommensurable with pre-moral goods and harms.

There remains to ask what we might defensibly think were our duties, if we were not convinced that the human person came into being with the human organism. How might we defensibly act, for example, if we did not know what to believe with regard to the origin of persons, but thought that there was some chance that we were now responsible for the welfare of a person? In this case the safest course would surely be to assume that the organism in question was a person, in view of the fact that even if we were inclined to doubt this, the killing of a person would be the more serious risk to run. For example, if a woman considering abortion assumes that the foetus is a person, the risk will normally be that she, and/or other people, will suffer needlessly during and, perhaps, after pregnancy.⁸ If, on the other hand, the woman assumes that the foetus is not a person, the risk is that the abortion will destroy, perhaps painfully, a valuable and innocent life.

Moreover, even if we were quite convinced that the person, or personhood, began some time after the organism itself, it would not follow that we had no obligations at all with regard to the early human organism. The survival of the very young is, after all, essential if there are to be any future goods enjoyed by older persons. It would be strange if there were no obligations concerning the treatment of very young members of our species - even if we did not think that justice required that such members be protected from attack. There are moral principles, we can reasonably assume, with regard to the engendering of persons, at least some of which refer, not to the need to avoid this, but to the need to admit new members to the world of rational agents. Whatever the origin of persons, at least some cases of abortion, infanticide, and even sterilization will be in some sense 'anti-social'. Such actions will

be free-riding, if not in the strong sense involving injustice to a fellow human person, in a weaker sense involving lack of generosity: the refusal to produce beneficiaries of the kind one is oneself. (In addition, of course, abortion and infanticide may involve lack of humanity, if pain is needlessly caused a sentient being).

Thus whatever our views on the origin of persons, we would expect to find moral principles of some kind regarding what is necessary for the existence of human society. Rules against the killing of young members of our species are essential if anyone is to benefit from anything at all, after the earliest stage of human development. It is not only, as Engelhardt suggests,⁹ respect for agents which is a pre-condition of the moral enterprise. Respect, or at least some protection, for pre-rational humans is, in a different sense, a precondition of the moral enterprise - though of course, given this precondition, one generation of agents could act for that generation alone. I have argued that there are strong reasons in favour of tracing our origin back as far as fertilization, and that both our interests and our rights as persons should be recognized from that time on. But even if none of this were true, we would still have reason to be grateful for those rules which govern the protection of immature humans. Such rules are, after all, those from which we have derived most benefit - or alternatively, those due to which we, and all our later triumphs, first came into being.

Notes

- ¹ It is sometimes claimed that the foetus may be classed as an aggressor if the mother's life is endangered by its presence. However, the crucial factor - intention - is missing. If I am trapped in a room (let's say, belonging to myself) I may suffocate unless I kill the person who is breathing right beside the only source of oxygen. If it were not for this person, I would be able to live - but to describe this person as my aggressor seems far-fetched.
- ² Joel Feinberg, 'Is There a Right to Be Born?', in Joel Feinberg, Rights, Justice and the Bounds of Liberty (Princeton: Princeton University Press, 1980), p. 216.
- ³ It should be noted that while there are methods of abortion which must involve a choice to attack life or physical integrity, other methods, such as those which bring about early labour, may equally involve a choice to kill. Similarly, to refuse to feed an infant so that the infant will die is direct, not indirect killing. Passive killing may be every bit as deliberate as active killing, and conversely, a person's death may be incidental to our intention, and yet an outcome of our action.
- ⁴ See my 'Abortion and Shelter: Beyond Thomson's Violinist', Ethics and Medicine (1992).
- ⁵ It might be objected that the technology required for implantation may have been developed using human embryo experimentation. However, the possible bad example of using this technology is surely outweighed by the strong responsibility of the researcher for the lives he or she is responsible for bringing into existence.
- ⁶ See, e.g. Don Marquis, 'Why Abortion is Immoral', The Journal of Philosophy 86 (1989).
- ⁷ Feinberg (1980), p. 216.
- ⁸ We should remember, however, that the great majority of women want their babies by the time they are born. Moreover, abortion itself can create considerable suffering; see, e.g. David C. Reardon, Aborted Women: Silent No More (Chicago: Loyola University Press, 1987).
- ⁹ H. Tristram Engelhardt, 'The Foundations of Bioethics: the Attempt to legitimate Biomedical Decisions and Health Care Policy', Revue de Metaphysique et de Morale 92 (1987), p.392.

Selected Bibliography

Aristotle, De Anima.

C.R.Austin and R.V.Short (eds.), Reproduction in Mammals, Vol. 11, Embryonic and Fetal Development (Cambridge: Cambridge University Press, 1972).

James Bogen, 'Identity and Origin', Analysis 26 (1966).

Baruch Brody, Abortion and the Sanctity of Human Life: A Philosophical View (Cambridge, Massachusetts: MIT Press, 1975).

Stephen Buckle, Karen Dawson and Peter Singer, 'The Syngamy Debate - When Precisely Does a Human Life Begin?', Law, Medicine and Health Care 17 (1989).

W.R.Carter, 'Once and Future Persons', American Philosophical Quarterly 17 (1980).

W.R.Carter, 'Do Zygotes Become People?', Mind 91 (1982).

David Cockburn (ed.), Human Beings (Cambridge: Cambridge University Press, 1991).

William Cooney, 'The Fallacy of all Person-denying Arguments for Abortion', Journal of Applied Philosophy (1991).

Edward Covey, 'Physical Possibility and Potentiality in Ethics', American Philosophical Quarterly 28 (1991).

Karen Dawson, 'Fertilisation and Moral Status: a scientific perspective', Journal of Medical Ethics 13 (1987).

Philip Devine, The Ethics of Homicide (Ithaca: Cornell University Press, 1978).

- Joseph F. Donceel, 'Immediate Animation and Delayed Hominization', Theological Studies 31 (1970).
- Robert Elliot, 'Personal Identity and the Causal Continuity Requirement', The Philosophical Quarterly 162 (1991).
- Robert Elliot and Andre Gallois, 'Would It Have Been Me? (Against the Necessity of Origin)', Australasian Journal of Philosophy 62 (1984).
- R.E.Ewin, Virtues and Rights: The Moral Philosophy of Thomas Hobbes (Boulder and Oxford: Westview Press, 1991).
- H. Tristram Engelhardt, 'The Foundations of Bioethics: The Attempt to Legitimate Biomedical Decisions and Health Care Policy', Revue de Metaphysique et de Morale 92 (1987).
- J.D.Evans (ed.), Moral Philosophy and Contemporary Problems (Cambridge: Cambridge University Press, 1988).
- Joel Feinberg, Rights, Justice and the Bounds of Liberty (Princeton: Princeton University Press, 1980).
- Joel Feinberg, 'Is There a Right to be Born', in Joel Feinberg (1980).
- Joel Feinberg, 'The Rights of Animals and Unborn Generations', in Joel Feinberg (1980).
- John Finnis, Natural Law and Natural Rights (Oxford: Clarendon Press, 1980).
- John Finnis (ed.), Natural Law Vols and 11 (Aldershot: Dartmouth, 1991).
- John Finnis, 'Natural Law and the 'Is'-'Ought' Question: an Invitation to Professor Veatch', in Finnis (1991).
- John Finnis, Germain Grisez and Joseph Boyle, Nuclear Deterrence, Morality and Realism (Oxford: Clarendon, 1987).
- Anthony Fisher, IVF: The Critical Issues (Melbourne: Collins Dove, 1989).
- Philippa Foot, 'Utilitarianism and the Virtues', Mind 94 (1985).

Graeme Forbes, 'Origin and Identity', Philosophical Studies 37 (1980).

Norman M. Ford, When did I begin? (Cambridge: Cambridge University Press, 1988).

R.G.Frey (ed.), Utility and Rights (Oxford: Basil Blackwell, 1985).

Peter Geach, The Virtues (Cambridge: Cambridge University Press, 1977).

Robert P. George, 'Human Flourishing as a Criterion of Morality: A Critique of Perry's Naturalism', in Finnis (1991).

James Griffin, Well Being: its Meaning, Measurement and Moral importance (Oxford: Clarendon Press, 1986).

Germain Grisez, 'Against Consequentialism', American Journal of Jurisprudence 23 (1978).

Germain Grisez, 'A Human Embryo is a Person: Outlining the Argument', forthcoming.

Germain Grisez, Joseph Boyle, and John Finnis, 'Practical Principles, Moral Truth, and Ultimate Ends', American Journal of Jurisprudence 32 (1987).

Vinit Haksar, Indivisible Selves and Moral Practice (Edinburgh: Edinburgh University Press, 1991).

Eli Hirsch, The Concept of Identity (Oxford and New York: Oxford University Press, 1982).

Alan Holland, 'A Fortnight of My Life is Missing: a Discussion of the Status of the Human "Pre-embryo"', Journal of Applied Philosophy (1990).

Rosalind Hursthouse, Beginning Lives (Oxford: Basil Blackwell, 1987).

Teresa Iglesias, 'In Vitro Fertilization: the Major Issues', Journal of Medical Ethics (1984).

Mark Johnstone, 'Human Beings', Journal of Philosophy 84 (1987).

- Immanuel Kant, Fundamental Principles of the Metaphysics of Ethics, trans. Thomas Kingsmill Abbott (London: Longmans, 1946).
- John Kleinig, 'Persons, Lines, and Shadows', Ethics 100 (1989).
- Saul Kripke, Naming and Necessity (Oxford: Blackwell, 1980).
- Helga Kuhse and Peter Singer, 'Response', Journal of Medical Ethics 10 (1984).
- David Lamb, Death, Brain Death and Ethics (London and Sydney: Croom Helm, 1985).
- David Lamb, 'Brain Death and Brainstem Death: Philosophical and Ethical Considerations', in J.D.Evans (1988).
- Locke, An Essay Concerning Human Understanding, Book 11.
- Michael Lockwood, 'Warnock versus Powell (and Harradine): When Does Potentiality Count?', Bioethics (1988).
- Loren E. Lomasky, Persons, Rights and the Moral Community (Oxford: Oxford University Press, 1987).
- E.J.Lowe, Kinds of Being: A Study of Individuation, Identity and the Logic of Sortal Terms (Oxford: Blackwell, 1989).
- E.J.Lowe, 'Real Selves: Persons as a Substantial Kind', in David Cockburn (1991).
- E.J. Lowe, 'Substance and Selfhood', Philosophy 66 (1991).
- Geoffrey Madell, The Identity of the Self (Edinburgh: Edinburgh University Press, 1981).
- Geoffrey Madell, Mind and Materialism (Edinburgh: Edinburgh University Press, 1988).
- Geoffrey Madell, 'Personal Identity and the Idea of a Human Being', in David Cockburn (1991).
- Don Marquis, 'Why Abortion is Immoral', The Journal of Philosophy 86 (1989).

H.J. McCloskey, 'The Right to Life', Mind 84 (1975).

H.J. McCloskey, 'Respect for Human Moral Rights', in R.G. Frey (1985).

Peter McCullagh, 'Organ Harvest: The Use of Anencephalic Infants in Transplantation', Quadrant 279 (1991).

Peter K. McInerney, 'The Nature of a Person-Stage', American Philosophical Quarterly 28 (1991).

Anne McLaren, 'The Embryo', in C.R. Austin and R.V. Short (1972).

Jeff McMahan, 'Death and the Value of Life', Ethics 99 (1988).

A.I. Melden, Rights and Persons (Oxford: Blackwell, 1977).

Phillip Montague, 'Infant Rights and the Morality of Infanticide', Nous 23 (1989).

Anselm W. Muller, 'Radical Subjectivity: Morality versus Utilitarianism', Ratio 19 (1977).

Thomas Nagel, Mortal Questions (Cambridge: Cambridge University Press, 1979).

Thomas Nagel, 'Death', in Thomas Nagel (1979).

Thomas Nagel, The View from Nowhere (New York: Oxford University Press, 1986).

Harold W. Noonan, Personal Identity (London: Routledge, 1989).

J.T. Noonan, Jr., The Morality of Abortion (Cambridge: Harvard University Press, 1970).

John T. Noonan, Jr., 'An Almost Absolute Value in History', in J.T. Noonan (1970).

Derek Parfit, Reasons and Persons (Oxford: Oxford University Press, 1987).

Michael J. Perry, 'Some Notes on Absolutism, Consequentialism, and Incommensurability', in Finnis (1991).

Phillip Pettit, 'Consequentialism and Respect for Persons', Ethics 100 (1989).

Nicola Poplawski and Grant Gillett, 'Ethics and Embryos', Journal of Medical Ethics 17 (1991).

Roland Puccetti, Persons: A Study of Possible Moral Agents in the Universe (London: Macmillan, 1968).

Warren Quinn, 'Abortion: Identity and Loss', Philosophy and Public Affairs 13 (1984).

Joseph Raz, The Morality of Freedom (Oxford: Clarendon, 1986).

David C. Reardon, Aborted Women: Silent No More (Chicago: Loyola University Press, 1987).

B.F. Scarlett, 'The Moral Status of Embryos', Journal of Medical Ethics 10 (1984).

Stephen D. Schwarz, The Moral Question of Abortion (Chicago: Loyola University Press, 1990).

Sydney Shoemaker, Identity, Cause and Mind (Cambridge: Cambridge University Press, 1984).

Peter Singer and Karen Dawson, 'IVF Technology and the Argument from Potential', Philosophy and Public Affairs 17 (1988).

J.J.C. Smart and B. Williams, Utilitarianism: For and Against (Cambridge: Cambridge University Press, 1973).

Jim Stone, 'Why Potentiality Matters', Canadian Journal of Philosophy 17 (1987).

P.F. Strawson, Individuals (London: Methuen, 1959).

Agneta Sutton, Prenatal Diagnosis: Confronting the Ethical Issues (London: The Linacre Centre, 1990).

Jenny Teichman, 'The Definition of Person', Philosophy 60 (1985).

Michael Tooley, Abortion and Infanticide (New York: Oxford University Press, 1983).

Peter Unger, Identity, Consciousness and Value (Oxford and New York: Oxford University Press, 1990).

Henry Veatch, 'Natural Law and the 'Is'-'Ought' Question: Queries to Finnis and Grisez', in John Finnis (1991).

Francis Wade, 'Potentiality in the Abortion Discussion', Review of Metaphysics 29 (1975).

Helen Watt, 'Abortion and Shelter: Beyond Thomson's Violinist', Ethics and Medicine (1992).

David Wiggins, 'Locke, Butler and the Stream of Consciousness: and Men as a Natural Kind', Philosophy 51 (1976)

David Wiggins, Sameness and Substance (Oxford: Basil Blackwell, 1980).

Kathleen Wilkes, Real People: Personal Identity Without Thought Experiments (Oxford: Clarendon Press, 1988).

Michael Wreen, 'Whatever Happened to Baby Jane', Nous 23 (1989).